Staff Summary Report

Tempe

Council Meeting Date: 1/22/2009 **Agenda Item Number:** _____

SUBJECT: Request to award a construction manager at risk design phase contract with Okland Construction Company, Inc. for renovations to the Tempe Public Library.

DOCUMENT NAME: 20090122PWTG03 **LIBRARY – 3500 S RURAL RD (0902-12) PROJECT NO. 6702491**

SUPPORTING DOCS: Yes.

COMMENTS: Total cost for this contract is $87,920.

PREPARED BY: Theresa Galindo, Acting Engineering Contract Administrator (x8518)

REVIEWED BY: Andy Goh, Deputy PW Manager/City Engineer (x8896)

APPROVED BY: Glenn Kephart, Public Works Manager (x8205)

LEGAL REVIEW BY: Judi Morgan, Assistant City Attorney (x8227)

FISCAL NOTE: This is a bond-funded project. Sufficient funds are available in Capital Improvement Fund No. 6702491.

RECOMMENDATION: Award construction manager at risk design phase contract.

ADDITIONAL INFO: The scope of work includes renovating the two main floors of the Tempe Public Library and minor renovations to the top floor if budget allows. Renovations will include new carpeting, signage, and furnishings; self-service check-in/check-out; centralized circulation and reference services; the addition of teen space and upgrades to the children's area; technology upgrades to computer systems; upgrades to meeting facilities; lighting improvements throughout; and upgrades to the HVAC systems.

For this design phase contract, the Construction Manager at Risk (CMAR) will be working closely with the design consultant by reviewing the design documents to determine constructability within the cost model and schedule for the project. The CMAR will attend project team meetings and workshops, construction document review meetings and partnering sessions.

This design phase contract was negotiated by staff and is considered reasonable for the scope of services. Okland Construction Company, Inc. was selected by a review committee as the most qualified firm for these services using a process pursuant to A.R.S. § 34-603.

COPY

CITY OF TEMPE, ARIZONA
PUBLIC WORKS DEPARTMENT
DIVISION OF ENGINEERING

CONTRACT FOR CONSTRUCTION MANAGER AT RISK
DESIGN PHASE SERVICES

This Contract is made and entered into this 22nd day of January, 2009, by and between the City of Tempe, an Arizona municipal corporation, ("City" or "Owner") and Okland Construction Company, Inc., an Arizona corporation ("Construction Manager at Risk" or "CM@Risk").

A. WHEREAS, City desires to construct improvements to be located at 3500 S. Rural Road in Tempe, Arizona, Maricopa County, Arizona, more particularly described herein;

B. WHEREAS, City and CM@Risk have reached an agreement, memorialized in this Contract, whereby CM@Risk will perform design services for said improvements for payment by City as set forth herein;

NOW, THEREFORE, City and CM@Risk, in consideration of the mutual representations and covenants set forth herein, and for other good and valuable consideration, do mutually agree as follows:

City engages CM@Risk to perform professional construction management design phase services for a project known and described as Tempe Public Library Renovation, Project No. 6702491 ("Project").

1. TERMS AND DEFINITIONS

1.1. **"Addendum"** means a document issued by City prior to City Council award of this Contract that modifies or supersedes portions of the Contract as to additional specifications, forms or other information.

1.2. **"Alternate Systems Evaluations"** means alternatives for design, means and methods or other scope considerations that are evaluated by City using value engineering principles for a potential reduction of construction costs of a quality and functional Project per City requirements.

1.3. **"Amendment"** means a written modification of the terms and conditions of this Contract signed by the parties of the Contract.

1.4. **"Business Day"** means any calendar day except Saturdays, Sundays and holidays observed by City.

1.5. **"Calendar Day"** means every day shown on the calendar including Saturdays, Sundays and holidays.

1.6. **"Change Order"** means a written agreement entered into after the award of CM@Risk that alters or amends the Contract.

1.7. **"Construction Fee"** means CM@Risk's total administrative costs, including home office overhead if any, and profit, whether at CM@Risk's principal or branch offices.

1.8. **"Construction Manager Professional"** means the person, firm or corporation having a contract with the City to provide construction management services for the Project.

1.9. **"CM@Risk" ("Construction Manager at Risk" or "Contractor")** means the person, firm, corporation or other approved legal entity with whom City has contracted with to provide design services or construction services.

1.10. **"Contingency"** means a fund to cover non-general conditions cost growth during the Project used by CM@Risk with City approval, for charges in material costs or availability, resource availability, production capacity or unforeseen Project circumstances. The amount of CM@Risk's contingency will be negotiated as a separate line item in each GMP Proposal.

1.11. **"City's Contingency"** means a fund to cover cost growth during the Project used at the sole discretion of City for costs resulting from City directed changes to the Work to be performed under the Contract or unforeseen site conditions. The amount of City's contingency will be set solely by City.

1.12. **"Contract"** means this written document, including all addenda, exhibits, attachments and schedules attached thereto, signed by City and CM@Risk covering the design phase of the Project. The Contract collectively represents the entire agreement between City and CM@Risk, and which supersedes any prior negotiations, representations or agreements, either written or oral.

1.13. **"Cost of the Work"** means the direct costs necessarily incurred by CM@Risk in the proper performance of the Work. The Cost of the Work may include direct labor costs, subcontract costs, costs of materials and equipment incorporated in the completed Work, costs of other materials and equipment, temporary facilities, building permit fees, materials testing, and related items. The Cost of the Work shall not include CM@Risk's Construction Fee, general conditions fee, taxes, bonds, or insurance costs.

1.14. **"Cost Model"** means a breakdown of the scope of the Project that is initially developed by CM@Risk during the conceptual design phase and based on information from the Project Team and CM@Risk's records of similar projects. The model will evolve as the design progresses and be maintained by CM@Risk throughout the design phase and will include any assumptions and clarifications made by CM@Risk. Cost Model will support any cost estimates, Alternative Systems Evaluations and eventually any GMP, when required by the Project Team. The Cost Model is subject to approval by City in its sole discretion.

1.15. **"Data" means** all information, whether written, electronic or verbal, including plans, photographs, studies, investigations, audits, analyses, samples, reports, calculations, internal memos, meeting minutes, field notes, work product, proposals, correspondence and any other similar documents or information prepared by or obtained by CM@Risk in the performance of this Contract.

1.16. **"Day(s)"** means calendar day(s) unless otherwise expressly stated herein.

1.17. **"Deliverables"** means the Work products prepared by CM@Risk in performing the scope of Work described in the Contract. The major deliverables to be prepared and provided by CM@Risk during the Design Phase include but are not limited to: construction management plan, Cost Model, Project schedule of values, Alternative System Evaluations, procurement strategies and plans, cost estimates, construction market surveys, cash flow projections, GMP, Subcontractor procurement plan, Subcontractor Contracts, Subcontractor bid packages, Supplier Contracts, and others as indicated in this Contract or required by the Project Team.

1.18. **"Design Professional"** means the person, firm or corporation having a contract with City to furnish design services for this Project.

1.19. **"Drawings"** means documents which visually represent the scope, extent and character of the Work and which have been prepared or approved by the Design Professional and City. Drawings include such documents that have reached a sufficient stage of completion and are released solely for the purposes of review and/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 excluding Shop Drawings and those marked "NOT FOR CONSTRUCTION").

1.20. **"Effective Date of this Contract"** means the date specified in this Contract on which the Contract becomes effective, but if no such date is specified, the date on which the last of the parties signs this Contract.

1.21. **"Engineer"** means City Engineer acting directly or through his duly authorized representative.

1.22. **"Final Acceptance"** means a written final acceptance of the Work prepared by the Engineer, after all Work has been completed in accordance with the Contract and after inspection is completed by City.

1.23. **"Guaranteed Maximum Price (GMP)"** means the offer of a proposal detailing the qualifications, assumptions, exclusions, value engineering and any and all other requirements set forth in the scope of Work for the construction phase.

1.24. **"Laws and Regulations; Laws or Regulations"** means any and all applicable laws, rules, regulations, ordinances, codes and orders of any and all federal, state,

and local governmental bodies, agencies, authorities and courts having jurisdiction over the subject Project, site, of this Contract, and/or any Work.

1.25. **"MAG Specifications"** means the Maricopa Association of Governments Uniform Standard Specifications, Maricopa Association of Governments Standard Details for Public Works Construction, latest edition, and City of Tempe Supplement thereto. The definitions set forth in MAG Specifications shall govern unless expressly defined herein.

1.26. **"Notice to Proceed"** means written notification from City to CM@Risk establishing the date on which performance of CM@Risk's obligations under this Contract shall begin.

1.27. **"Progress Payment"** means the form accepted by City and used by CM@Risk in requesting progress payments or final payment for Work performed under this Contract, which includes supporting documentation as required by the Contract or City.

1.28. **"Project"** means the total design and construction of improvements or services and/or Work to be performed by the CM@Risk.

1.29. **"Project Manager"** means Engineer or Construction Manager Professional.

1.30. **"Project Team"** means a construction services unit consisting of a Design Professional, CM@Risk, Engineer, Construction Manager Professional and other persons who are responsible for making decisions regarding the Project, as approved by Engineer. Any other persons to be included in the Project Team shall be identified in the preconstruction conference, and are subject to approval by Engineer.

1.31. **"Samples"** means physical examples of materials, equipment or workmanship representative of a part of the construction phase establishing the standards by which that portion of the construction phase Work will be evaluated.

1.32. **"Shop Drawings"** means all drawings, diagrams, illustrations, schedules and other data or information specifically prepared or assembled by or for CM@Risk and submitted by CM@Risk to illustrate some portion of the Work.

1.33. **"Specifications"** means the technical specifications for the construction phase of this Project consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and administrative details applicable thereto.

1.34. **"Subcontractor"** means an individual, firm, entity or corporation other than CM@Risk's employees, having a contract with CM@Risk to undertake to perform a part or portion of the design phase services or construction phase Work at the site for which CM@Risk is responsible. Subcontractors shall be selected through the Subcontractor bid process described in Section 13 of this Contract.

1.35. **"Substantial Completion"** means when the Work, or when an agreed upon portion of the Work, is sufficiently complete so that City can occupy and use the Project or a portion thereof for its intended purposes. Substantial Completion shall be determined by City in its sole discretion.

1.36. **"Supplier"** means a manufacturer, fabricator, supplier, distributor, materialman or vendor having a direct contract with CM@Risk or with any Subcontractor to furnish materials or equipment.

1.37. **"Total Float"** means number of Calendar Days by which the design phase services or construction phase Work or any part of the same may be delayed without necessarily extending a pertinent schedule milestone in the Project schedule, as determined by City.

1.38. **"Work"** means any or all of the improvements as required by the Contract, and the construction, demolition, reconstruction, design and/or repair of all or any portion of such improvements, and all labor, services, incidental expenses, and material necessary or incidental thereto.

2. SERVICES OF CM@RISK

2.1. CM@Risk shall perform in accordance with the degree of care, skill and judgment that a professional in Arizona would exercise under similar conditions. CM@Risk will, at all times, perform the required services consistent with sound and generally accepted construction, construction management and design services practices.

2.2. CM@Risk has assigned Bill Okland as its representative for this Contract. Prior written approval by City is required in the event CM@Risk requests a personnel substitution. CM@Risk shall submit the qualifications of any proposed substituted personnel to City for approval.

2.3. CM@Risk shall provide services for this Project as described in Exhibit "A". The design phase services being provided under this Contract will not alter any real property owned by City.

3. TERM

CM@Risk shall complete all design phase services per the terms of the Contract, free and clear from any and all claims, liens and changes whatsoever, within three hundred sixty-five (365) calendar days of the Notice to Proceed date issued by City. In the event delays are experienced beyond the control of CM@Risk, the schedule may be revised as determined by City in its sole discretion.

4. CM@RISK'S COMPENSATION

4.1. Payment for this Contract shall be payment by installments. Total compensation for the services performed shall not exceed $87,920, unless otherwise authorized by City. This fee includes an amount not to exceed $58,500 for pre-construction services based on hourly rates established in the attached Exhibit "A" incorporated hereby this reference; an allowance of $4,120 for meetings; and allowance of $21,000 for design assistance and field investigation; and an allowance of $4,300 for reimbursable expenses, which in no event will ever be more than actual cost.

4.2. City will pay CM@Risk installments based on monthly progress reports and detailed invoices submitted by CM@Risk. Such payments will be made within thirty (30) days after receipt and approval of the progress report and detailed invoice by City.

5. CITY'S RESPONSIBILITIES

5.1. City may designate a Construction Manager Professional for the term of this Contract. When designated, the Construction Manager Professional has authority to administer this Contract and will monitor compliance with all terms and conditions stated herein. All requests for information from or a decision by City on any aspect of the Work will be directed to the Construction Manager Professional.

5.2. City will review Deliverables by CM@Risk, provide prompt responses to questions and render decisions to minimize delay in the progress of the Work. City will keep CM@Risk advised concerning the progress of City's review of the Work. CM@Risk agrees that City's inspection, review, acceptance and/or approval of CM@Risk's Work shall not relieve CM@Risk's responsibility for errors or omissions of CM@Risk or any of its Subcontractors.

5.3. Unless included in CM@Risk's services as identified herein, City may furnish with or without charge the following to the extent it is within the City's possession or control:

5.3.1. One copy of its maps, records, laboratory tests, survey ties and benchmarks, or other data in its possession pertinent to the services. However, CM@Risk shall be solely responsible for researching the records, requesting specific Drawings or information, and independently verifying all data.

5.3.2. Available City Data on policies, regulations, standards, criteria and studies relevant to the Project.

5.4. City additionally may:

5.4.1. Contract separately with one or more design professionals to provide architectural and/or engineering design services for the Project. The scope

of the services for the design professional will be provided to CM@Risk. CM@Risk shall have no right to limit or restrict any changes of such services that are otherwise mutually acceptable to City.

5.4.2. Supply all necessary copies of programs and reports reasonably required by CM@Risk.

5.4.3. Provide CM@Risk with adequate information regarding City's requirements for the Project.

5.4.4. Give prompt written notice to CM@Risk in the event City becomes aware of any default or defect in the Project or nonconformance with the Drawings and/or Specifications.

5.4.5. Notify CM@Risk of changes concerning or affecting budget allocations.

5.4.6. Authorize the Project Manager to approve the Project budget and Project schedule, render decisions and furnish information to CM@Risk.

6. GENERAL SCOPE OF SERVICES

6.1. Project Meetings. CM@Risk shall attend Project Team meetings and all other meetings as directed by City.

6.2. CM@Risk shall provide any and all services, described herein, in a proactive manner and consistent with the intent of the most current Drawings and Specifications. CM@Risk will promptly notify City in writing in the event that CM@Risk determines that any Drawings or Specifications are inappropriate for the Project and/or cause changes in the scope of Work.

6.3. CM@Risk when requested by City or at its own initiative, if previously approved by City, will attend, make presentations and participate as may be appropriate in public agency and or community meetings relevant to the Project. CM@Risk will provide Drawings, schedule diagrams, budget charts and other materials describing the Project when their use is required or appropriate in any public agency meetings, as determined by City.

7. CONSTRUCTION MANAGEMENT PLAN

7.1. CM@Risk shall prepare a Construction Management Plan (CMP) which will detail but not necessarily be limited to CM@Risk's determination concerning: (1) Project milestone dates and the Project schedule including the broad sequencing of the design and construction of the Project; (2) alternate strategies for fast-tracking and/or phasing the construction; (3) the number of separate sub-agreements to be awarded to Subcontractors and Suppliers for the Project construction; (4) permitting strategy; (5) safety and training programs; (6) construction quality control; (7) a commissioning program, plant start-up and

training; (8) the Cost Model and basis of the model; and (9) a matrix summarizing each Project Team member's responsibilities and roles.

7.2. CM@Risk will add detail to its previous version of the CMP to keep it current throughout the design phase so that the CMP is ready for implementation at the start of the construction phase. The update/revisions will take into account: (a) revisions in Drawings and Specifications; (b) CM@Risk's examination of the results of any additional investigatory reports of subsurface conditions, drawings of physical conditions of existing surface and subsurface facilities and documents depicting underground utilities placement and physical conditions whether obtained by City, Engineer or CM@Risk; (c) unresolved permitting issues, and significant issues, if any, pertaining to the acquisition of land and right-of-way; (d) the fast-tracking of any of the construction or other chosen construction delivery methods; (e) the requisite number of separate bidding documents to be advertised; (f) the status of the procurement of long-lead time equipment, if any, and/or materials; and (g) funding issues identified by City.

8. PROJECT SCHEDULE

8.1. The fundamental purpose of the Project schedule is to identify, coordinate and record the tasks and activities to be performed by all of the Project Team members and then for the Project Team to utilize the schedule as a basis for managing and monitoring compliance by all Project Team members with the requirements of the Project. Each Project Team member is responsible for compliance with the schedule requirements of the Project. CM@Risk will develop and maintain the Project schedule for the Project Team based on input received, consistent with the most recent revised/updated CMP. The Project schedule will use the critical path method (CPM) technique unless City by written notice requires a different method. CM@Risk will use scheduling software to develop a Project schedule acceptable to City presented in graphical and tabular reports as agreed upon by the Project Team. If Project phasing as described below is required, the Project schedule will indicate milestone dates for the phases once determined. The Project schedule's activities shall correlate with the schedule of values specified herein.

8.2. CM@Risk shall include and integrate in the Project schedule the services and activities required of City, Engineer and CM@Risk, including all construction phase activities. The Project schedule will detail all activities to the extent required to show: (a) the coordination between conceptual design, preliminary design and development of the construction documents (detailed design); (b) any separate long-lead procurements; (c) permitting issues; (d) any land and right-of-way acquisition; (e) bid packaging strategy and awards to Subcontractors and Suppliers; (f) major stages of construction; (g) start-up and commissioning; and (h) occupancy of the completed Work by City. The Project schedule will include, but not be limited to, proposed activity sequences and durations for design, procurement, construction and testing activities, milestone dates for actions and decisions by the Project Team, preparation and processing of Shop Drawings and Samples, delivery of materials or equipment requiring long-lead time

procurement, if any, milestone dates for various construction phases, Total Float for all activities, relationships between the activities, City's occupancy requirements showing portions of the Project having occupancy priority and proposed dates for Substantial Completion and when the Work shall be ready for Final Acceptance.

8.3. The Project schedule shall be updated and maintained by CM@Risk throughout the design phase such that it will not require major revisions at the start of the construction phase to incorporate CM@Risk's plan for the performance of the construction phase Work. CM@Risk will provide updates and/or revisions to the Project schedule for use by the Project Team, whenever required, but no less often than at the monthly Project Team meetings. CM@Risk will include comparison of the progress achieved to that planned, any concerns regarding delays or potential delays, and any recommendations regarding mitigating actions.

8.4. Project Phasing. If phased construction is deemed appropriate and City approves, CM@Risk shall review the design and make recommendations regarding the phased issuance of construction documents to facilitate phased construction of the Work with the objective of reducing the Project schedule and/or Cost of the Work. CM@Risk will take into consideration factors such as natural and practical lines of work severability, sequencing effectiveness, access and availability constraints, total time for completion, construction market conditions, labor and materials availability and other factors pertinent to saving time and decreasing costs.

9. DESIGN DOCUMENT REVIEWS

9.1. CM@Risk shall periodically evaluate the availability of labor, materials/equipment, building systems, cost-sensitive aspects of the design and other factors that may impact the Cost Model, GMP and/or the Project schedule and update each accordingly.

9.2. CM@Risk will identify, in conjunction with the Project Team, any additional surface and subsurface investigations that are required to provide the necessary information for the construction of the Project. After completion of design phase services, CM@Risk may provide additional investigations to improve the adequacy and completeness of the site condition information and the data made available with the construction documents. CM@Risk will be responsible for the time and cost required to obtain such additional investigations, except if otherwise provided by specific additional services.

9.3. CM@Risk will meet with the Project Team as required, to review designs during development. CM@Risk will thoroughly familiarize itself with the evolving documents through conceptual design, preliminary design and development of detailed design documents. CM@Risk will proactively advise the Project Team and make recommendations on factors related to construction costs and concerns pertaining to the feasibility and practicality of any proposed means and methods, selected materials, equipment and building systems and labor and material

availability. CM@Risk will advise the Project Team on proposed site improvements, excavation and foundation considerations, as well as any concerns with respect to coordination of the Drawings and Specifications. CM@Risk will recommend cost effective alternatives.

9.4. As necessary to satisfy the needs of the Project Team, CM@Risk will routinely conduct constructability and biddability reviews of the Drawings and Specifications. The reviews will attempt to identify all discrepancies and inconsistencies in the construction documents, especially those related to clarity, consistency and coordination of Subcontractors and Suppliers.

9.5. Constructability Reviews. CM@Risk shall evaluate whether: (a) the Drawings and Specifications are configured to enable efficient construction; (b) design elements are standardized; (c) construction efficiency is properly considered in the Drawings and Specifications; (d) module/pre-assembly design are prepared to facilitate fabrication, transport and installation; (e) the design promotes accessibility of personnel, material and equipment and facilitates construction under adverse weather conditions; (f) sequences of Work required by or inferable from the Drawings and Specifications are practicable; and (g) the design has taken into consideration efficiency issues concerning access and entrance to the site, laydown and storage of materials, staging of site facilities, construction parking and other similar pertinent issues.

9.6. Biddability Reviews. CM@Risk will check and cross-reference complementary Drawings and Specifications, and evaluate, among other things, whether: (a) the Drawings and Specifications are sufficiently clear and detailed to minimize ambiguity and to reduce scope of interpretation discrepancies; (b) named materials and equipment are commercially available and are performing well in similar installations; (c) the design provides as-built data; (d) Specifications include alternatives in the event a requirement cannot be met in the field; and (e) the Project is likely to be subject to differing site conditions considering the data on subsurface conditions, physical conditions of existing surface and subsurface facilities and physical conditions of underground utilities made available by the design or resulting from conditions inherent to work similar to the Work.

9.7. The results of these reviews as set forth in Section 9 will be provided to City in formal written reports clearly identifying all discovered discrepancies and inconsistencies in the Drawings and Specifications, with notations and recommendations made on the documents. If requested by City, CM@Risk will meet with the Design Professional to discuss its findings and review the reports. Responsibility for updating the Drawings and Specifications will remain with the Design Professional and not CM@Risk.

9.8. Notification of Variance or Deficiency. It is CM@Risk's sole responsibility to determine and notify the Engineer as to whether the construction documents are in accordance with applicable laws, statutes, ordinances, building codes, rules and regulations. If CM@Risk recognizes that portions of the construction documents are at variance with applicable laws, statutes, ordinances, building codes, rules or

regulations, it will promptly notify the Project Manager in writing describing the apparent variance or deficiency.

9.9. Alternate Systems Evaluations. The Project Team will routinely identify and evaluate, using value engineering principles, any alternate systems, approaches and/or design changes that have the potential to reduce Project costs while still delivering a quality and functional product. If the Project Team agrees, CM@Risk in cooperation with the Design Professional will perform a cost/benefit analysis of the alternatives and submit the analysis in writing to the Project Team. The Project Team will decide which alternatives will be incorporated into the Project. CM@Risk will include the cost of the alternatives in the Cost Model and any GMP.

10. COST MODEL, COST ESTIMATES AND SCHEDULE OF VALUES

10.1. As soon as practical during the conceptual design phase, CM@Risk shall review all available information regarding the design and scope of the Project and other pertinent factors. CM@Risk will develop a Cost Model for review and approval by City. Once approved by City, the Cost Model will be continually updated and kept current to the design phase by CM@Risk until a final GMP for the entire Project is established. The Cost Model shall constitute the best representation of what the complete functional Project's estimated construction costs. CM@Risk will communicate in writing to the Project Team any assumptions made in preparing the Cost Model. The Cost Model will support CM@Risk's construction cost estimates and shall be broken down by Construction Standard Institute (CSI) Specification Divisions 1-16 and/or otherwise, as required by City. The Cost Model shall also include allowances set by the Project Team, including but not limited to: (a) construction cost Contingency based on an agreed upon percentage of a total estimated construction cost; (b) allowances for potential additional quantities and/or additional Work that City may require; and (c) any costs as required by City.

10.2. After receipt of the Design Professional's most current documents from certain specified design phase milestones, CM@Risk will provide a detailed written report to the Project Team regarding the impact of and changes to the Cost Model based on CM@Risk's review of the design documents. The Design Professional and CM@Risk will reconcile any disagreements on the Cost Model to arrive at an agreed upon estimate for the construction costs based on the scope of the Project through that specified design phase milestone. The design phase milestones applicable to this paragraph are: detailed design completion at 60%, 90% and 100%. If no consensus is reached, City will make the final determination. If the Project Team requires additional updates of the Cost Model beyond what is specified herein, CM@Risk will timely provide the requested information.

10.3. If at any point the Cost Model submitted to City exceeds previously accepted estimates agreed to by the Project Team or other key aspects of the Cost Model or City's Project budget, CM@Risk will make appropriate recommendations to City and Design Professional on means/methods, materials and/or other design

elements to reduce the estimated construction costs, without altering City's parameters such that it is equal to or less than the established Project Team's target and/or the Project budget.

10.4. Upon completion of the 90% detailed design review, included with the associated report, CM@Risk will submit to City for approval, a schedule of values which complies with the following requirements. The schedule of values shall be based on the 16 CSI Divisions, and highlight significant variances from any previously submitted schedule of values. The schedule of values will be directly related to the breakdowns reflected in the Project schedule and CM@Risk's Cost Model. In addition, the schedule of values will: (a) detail unit prices and quantity take-off's; (b) segregate Work covered by any changes to construction phase Work already in progress; (c) reconcile used and remaining contractor's Contingency allowance; (d) detail all other allowances and unit price Work shown and specified in the detailed design documents; and (e) segregate unit costs, material and equipment costs, labor costs, General Conditions Costs, hourly labor rates, payment for design services, and total cost. Labor costs therein will include employee benefits, payroll taxes and other payroll burdens. The total cost for any portion of the Work to be performed by Subcontractors will include Subcontractor overhead and profit.

10.5. As required herein, CM@Risk shall submit a final schedule of values to City, based on the one hundred percent (100%) detailed design set of Drawings and Specifications for the entire Project or any portion thereof, which final schedule of values will also be included in any proposed GMP(s).

10.6. Upon request by City, CM@Risk shall submit a cash flow projection for the Project based on the current updated/revised Project schedule and the anticipated level of payments for CM@Risk during the design and construction phases. In addition, if requested by City and based on information provided by City, CM@Risk will prepare a cash flow projection for the entire Project based on historical records for similar types of projects to assist City in the financing process.

11. GUARANTEED MAXIMUM PRICE (GMP) PROPOSALS

11.1. The proposed GMP for the entire Work (or portions thereof) will be presented in a format acceptable to City and consistent with City's request for a GMP. City may request a GMP for all or any portion of the Project and at any time during the design phase. Any GMP submitted by CM@Risk will be based on and consistent with the current updated/revised Cost Model at the time of the request, the associated estimates for construction costs and include any clarifications or assumptions upon which the GMPs are based.

11.2. GMPs for the entire Project shall be the sum of the maximum Cost of the Work and include the Construction Fee, General Conditions Cost and Contingency. CM@Risk guarantees to complete the Project at or less than the final approved

GMP, and agrees that it will be solely responsible for any difference between the actual Cost of the Work and the GMP.

11.3. CM@Risk, in preparing any GMP, shall obtain from the Design Professional three (3) sets of signed, sealed and dated construction documents, including all Addenda. CM@Risk will prepare its GMP requirements based on the most current completed construction documents at that time. CM@Risk will provide one (1) set of those documents to the Engineer, retain one set and return the third set to the Design Professional.

11.4. An updated/revised Project schedule shall be included with any GMP that reflects the scope of Work shown in the current set of design documents upon which the GMP is based. Any such Project schedule updates/revisions will continue to comply with the requirements of Section 3 of this contract.

11.5. In the event CM@Risk elects to maintain a contractor's Contingency allowance within the GMP, the criteria for development of that allowance must be approved by City. In addition, the terms and conditions regarding use of that allowance during the construction phase will be established by City and reflected in the Contract for that phase of the Project.

11.6. The Construction Fee is set at five percent (5.0%) of the combined total of the Cost of the Work, General Conditions (general expense costs) and contractor's Contingency.

12. REVIEW AND APPROVAL OF GMP PROPOSAL(S)

12.1. CM@Risk shall meet with the Project Manager or Design Professional to review any GMP and the written statement of its basis. In the event the Project Manager or Design Professional discovers inconsistencies or inaccuracies in the information presented, CM@Risk shall make adjustments as necessary to the GMP.

12.2. Upon receipt of any GMP from CM@Risk, City may submit the same documents that were used by CM@Risk in developing the GMP to an independent third party or to the Design Professional for review and verification. The third party or Design Professional shall develop an independent estimate of the Cost of the Work and review the Project schedule for the associated scope of the GMP.

12.3. If CM@Risk GMP is greater than the independent third party or Design Professional's estimate, City may require CM@Risk to reconfirm the GMP. CM@Risk will accept the independent third party's or Design Professional's estimate for the Cost of Work as part of the GMP or present a report to City within seven (7) days of a written request by City identifying, explaining and substantiating the differences. CM@Risk may be requested to submit a revised GMP for consideration by City. At that time City may do one of the following:

12.3.1. Accept CM@Risk GMP in City's sole discretion;

12.3.2. Accept CM@Risk GMP that exceeds City's budget and agree to increase the Project Budget to fund the differences;

12.3.3. Reject CM@Risk's GMP. City may terminate this Contract or elect not to enter into a contract with CM@Risk for the construction phase of this project; or,

12.3.4. Take other actions deemed appropriate by City.

12.4. If during the review and negotiation of the GMP, design changes are required and agreed upon, City will authorize and cause the Design Professional to revise the construction documents to the extent necessary to reflect the agreed upon assumptions and clarifications contained in the final approved GMP. Such revised construction documents will be furnished to CM@Risk. CM@Risk will promptly notify the Design Professional and City if any such revised construction documents are inconsistent with the agreed upon assumptions and clarifications.

13. SUBCONTRACTOR AND SUPPLIER SELECTIONS

13.1. CM@Risk shall select Subcontractors as set forth in A.R.S. § 34-603. CM@Risk hereby warrants that it has complied with the applicable provisions of A.R.S. § 34-603 in its selection of any Subcontractor and agrees to hold harmless and indemnify City for any statutory non-compliance.

13.2. All Subcontractors doing work in excess of Thirty Thousand Dollars ($30,000.00) shall maintain, during the course of the Contract, health insurance for all employees working on this project and will offer health insurance coverage to eligible dependents of such employees as required by City of Tempe Guidelines for Implementation of Health Insurance, and Resolution No. 2000.73.

13.3. CM@Risk will distribute Drawings and Specifications, and when appropriate, conduct a prebid conference with prospective Subcontractors.

13.4. City will conduct a conference with CM@Risk and other Project Team members. At the conference, CM@Risk will: (a) discuss City concerns relating to any proposed self-performed Work; (b) review CM@Risk's proposed contract price for the Work during the construction phase; (c) discuss the conditions, if any, under which City will agree to leave any portion of the remaining City's Contingency within the Contract price for the construction phase Work; (d) resolve possible scheduling issues with the commencement date of the Contract for the construction phase Work; (e) schedule the design conference; and, (f) discuss other matters as needed.

14. INSURANCE

14.1. Without limiting any of their obligations or liabilities, CM@Risk, at its own expense, shall purchase and maintain the minimum insurance specified below with companies duly licensed or otherwise approved by the State of Arizona, Department of Insurance, and with forms reasonably satisfactory to City. Each insurer shall have a current A.M. Best Company, Inc. rating of not less than A-VII. Use of alternative insurers requires prior approval from City.

14.2. General Clauses.

14.2.1. Additional Insured. Insurance coverage, except workers' compensation and professional liability, required by this Contract, shall name City, its agents, representatives, directors, officials, and employees, as additional insureds, and shall specify that insurance afforded CM@Risk shall be primary insurance, and that any self insured retention and/or insurance coverage carried by City or its employees shall be excess coverage, and not contributory coverage to that provided by CM@Risk.

14.2.2. Coverage Term. All insurance required herein shall be maintained in full force and effect until the services required to be performed under the terms of this Contract are satisfactorily completed and formally accepted; failure to do so may constitute a material breach of this Contract, at the sole discretion of City.

14.2.3. Primary Coverage. CM@Risk's insurance shall be primary insurance as respects City and any insurance or self insurance maintained by City shall be in excess of CM@Risk's insurance and shall not contribute to it.

14.2.4. Claim Reporting. CM@Risk shall not fail to comply with the claim reporting provisions of the policies or cause any breach of a policy warranty that would affect coverage afforded under the policy to protect City.

14.2.5. Waiver. The policies for workers' compensation and general liability shall contain a waiver of transfer rights of recovery (subrogation) against City, its agents, representatives, directors, officers, and employees for any claims arising out of the work of CM@Risk.

14.2.6. Deductible/Retention. The policies may provide coverage which contain deductibles or self-insured retentions. Such deductible or self-insured retentions shall not be applicable with respect to the coverage provided to City under such policies. CM@Risk shall be solely responsible for deductible or self-insured retentions and City may require CM@Risk to secure the payment of such deductible

or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

14.2.7. Policies and Endorsements. City reserves the right to request and to receive, within ten (10) Business Days, information on any or all of the above policies or endorsements.

14.2.8. Certificates of Insurance. Prior to commencing services under this Contract, CM@Risk shall furnish City with Certificates of Insurance or formal endorsements as required by the Contract issued by CM@Risk's insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Contract are in full force and effect. Such certificates shall identify this Contract number and shall provide for not less than thirty (30) days advance written notice by certified mail of cancellation or termination.

14.2.9. Subconsultants/Subcontractors. CM@Risk shall include all subconsultants and Subcontractors as insured under its policies.

14.3. Workers' Compensation.

14.3.1. CM@Risk shall carry workers' compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of CM@Risk employees engaged in the performance of the services and employer's liability insurance of not less than $100,000 for each accident, $100,000 disease coverage for each employee, and $500,000 disease policy limits.

14.3.2. In case services are subcontracted, CM@Risk will require the Subcontractor to provide workers' compensation and employer's liability to at least the same extent as provided by CM@Risk.

14.4. Automobile Liability.

CM@Risk shall carry commercial/business automobile liability insurance with a combined single limit for bodily injury and property damages of not less than $1,000,000, each occurrence, regarding any owned, hired and non-owned vehicles assigned to or used in performance of CM@Risk's services. Coverage will be at least as broad as coverage Code 1 "any auto" (Insurance Service Office policy form CA 0001 1/87 or any replacements thereof). Such coverage shall include coverage for loading and unloading hazards.

14.5. Commercial General Liability.

14.5.1. CM@Risk shall carry commercial general liability insurance with unimpaired limit of not less than $1,000,000 for each claim with a $2,000,000 general aggregate limit. The general aggregate limit shall apply separately to the Services under this Contract or the general aggregate shall be twice the required per claim limit. The policy shall be primary and include coverage for bodily injury including death, property damage, personal injury, products, completed operations and blanket contractual covering, but not limited to, the liability assumed under the indemnification provisions of this Contract, which coverage shall be at least as broad as Insurance Service Office policy form CG 0001 7/98 or any replacement thereof.

14.5.2. In the event the general liability insurance policy is written on a claims made basis, coverage shall extend for two (2) years past completion and acceptance of the services as evidenced by annual certificates of insurance.

14.5.3. Such policy shall contain a severability of interest provision (also known as cross-liability and separation of insured).

14.6. CM@Risk Professional Liability.

To the extent applicable, CM@Risk shall maintain contractor professional liability insurance covering errors and omissions arising out of the services performed by CM@Risk or any person employed by CM@Risk with an unimpaired limit of not less than $1,000,000 each claim and $1,000,000 all claims or 10% of the construction budget, whichever is larger. In the event the insurance policy is written on a claims made basis, coverage shall extend for two (2) years past completion and acceptance of Work as evidenced by annual certificates of insurance.

14.7. Property Coverage – Valuable Papers. CM@Risk shall carry property coverage on all-risk, replacement cost, agreed amount form with valuable papers insurance sufficient to assure the restoration of any documents, memoranda, reports or other similar data relating to the services of CM@Risk used in the completion of this Contract.

14.8. Health Insurance Requirements.

14.8.1. All Consultants who enter into a Public Works contract in excess of Thirty Thousand Dollars ($30,000) with City of Tempe, after January 1, 2001, must certify that they have, and all of their major subconsultants will have, health insurance for all employees. Health insurance must be offered to eligible dependents of all such employees. An affidavit must be signed in the form included herein (Page AFF-1). Major subconsultants are defined

as entities doing work in excess of Thirty Thousand Dollars ($30,000) as determined at the start of each project. All required health insurance must be maintained during the entire time of the Contract with City.

14.8.2. Health insurance is required for all consultant and major subconsultant employees who work more than one hundred and twenty (120) days in any calendar year. A "work day" consists of any time within a twenty-four (24) hour period, regardless of number of hours that the individual is paid. At this time, health insurance is not required for temporary employees or students working part-time who are enrolled in a recognized educational institution.

14.8.3. Health insurance requirements shall apply to all employees directly involved with this Project including support and administrative personnel.

14.8.4. All complaints concerning violations of the health insurance requirements shall be filed, in writing, with the Public Works Department, within thirty (30) days from discovery of the violation. An administrative hearing will be held before the Public Works Manager, and a written decision of findings will be provided to the parties to the hearing within ten (10) days thereafter. Appeal from the decision of the Public Works Manager may be made within ten (10) days of the date of the decision by filing a notice of appeal in writing with the Public Works Department. If an appeal is timely filed, an administrative hearing will be held before an administrative hearing officer appointed by City Manager. The decision of the administrative hearing officer shall be final.

14.8.5. In the event of a finding of violation of the insurance provisions, the company in violation of the provision shall be barred from bidding on, or entering into, any Public Works Contract with City for a period of three (3) years from the execution of the Contract.

14.8.6. All Consultants subject to the health insurance requirements shall post, in English, notice of the health insurance requirements at their office and at the job site. Signs for posting will be provided by City at the pre-construction conference for CMR@Risk and sent with the executed contract for Consultants.

15. PROJECT DOCUMENTS AND COPYRIGHTS

15.1. City Ownership of Project Documents. All work products (electronically or manually generated) prepared in the performance of this Contract including but not limited to, plans, Drawings, Specifications, cost estimates, tracings, studies, design, analysis, CADD files and related products, are the property of City and are to be delivered to City before the final payment is made to CM@Risk. Only if previously approved in writing by City, CM@Risk may retain originals and supply City with reproducible mylar copies of the work.

15.2. Documents to Bear Seal. When applicable and as required by law, CM@Risk and its Subcontractors will endorse by professional seal all plans, works, and Deliverables prepared by them pursuant to this Contract.

16. CONFLICT OF INTEREST

16.1. CM@Risk agrees to disclose any financial or economic interest in the Project property, or any property affected by the Project, existing prior to the execution of this Contract. Further, CM@Risk agrees to disclose any financial or economic interest with the Project property, or any property affected by the Project, if CM@Risk gains such interest during the course of this Contract. Only if previously approved in writing by City, CM@Risk may retain originals and supply City with reproducible mylar copies of the work.

16.2. If CM@Risk gains financial or economic interest in the Project during the course of this Contract, this may be grounds for terminating this Contract at the sole discretion of City.

16.3. CM@Risk shall not engage the services on this Contract of any present or former City employee who was involved as a decision maker in the selection or approval processes, or who negotiated or approved billings or contract modifications for this Contract.

16.4. To evaluate and avoid potential conflicts of interest, CM@Risk will provide written notice to City, as set forth in this section, of any work or services performed by CM@Risk for third parties that may involve or be associated with any real property or personal property owned or leased by City.

16.5. Actions considered to be adverse to City under this Contract include but are not limited to:

16.5.1. Using Data as defined in the Contract, acquired in connection with this Contract, to assist a third party in any manner.

16.5.2. Testifying or providing evidence on behalf of any person in connection with an administrative or judicial action against City.

16.5.3. Using Data to produce income for CM@Risk or its employees independently of performing under this Contract, without the prior written consent of City.

16.6. CM@Risk represents that except for those persons, entities and projects previously identified in writing to City, the services to be performed by CM@Risk 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 City.

16.7. CM@Risk's failure to provide a written notice and disclosure of the information as set forth in this section will constitute a material breach of this Contract.

17. COVENANT AGAINST CONTINGENT FEES

CM@Risk affirms that it has not employed or retained any company or person, other than a bona fide employee working for CM@Risk, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration contingent upon or resulting from the award or making of the Contract. For breach or violation of this clause, City shall terminate this Contract or in its discretion may deduct from the Contract price or otherwise recover, the full amount of such fee, commission, percentage brokerage fee, gift or contingent fee from CM@Risk.

18. INDEMNIFICATION

To the fullest extent permitted by law, CM@Risk shall defend, indemnify and hold harmless City, its agents, officers, officials, and employees from and against all claims, damages, losses, liability and/or expenses, relating to, arising out of, or alleged to have resulted from the negligent acts, errors, mistakes or omissions in the work, services, or professional services of CM@Risk, its agents, employees, or any other person for whose negligent acts, errors, mistakes or omissions in the work, services, or professional services CM@Risk may be legally liable in the performance of or any breach of this Contract, including failure to comply with applicable laws. The amount and type of insurance coverage requirement set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph. This provision shall survive the term of the Contract.

19. DISPUTE RESOLUTION

In the event of a dispute between the parties regarding a provision of this Contract, a party's performance of its obligations as stated in this Contract or any other matter governed by the terms of this Contract, the parties will meet in good faith to attempt to resolve the dispute. If the parties fail to resolve the dispute, then City may pursue any and all remedies provided by law or in equity. The exercise of any one of City's remedies shall not preclude subsequent or concurrent exercise of further or additional remedies.

20. ADDITIONAL SERVICES

Additional services which are outside the scope of basic services contained in this Contract shall not be performed by CM@Risk without prior written authorization from City. Additional services, when authorized by an agreement or an Amendment to this Contract shall be compensated for by a fee mutually agreed upon between City and CM@Risk.

21. ALTERATION IN CHARACTER OF WORK

In the event an alteration or modification in the character of Work or Deliverable results in a substantial change in this Contract, thereby materially increasing or decreasing the

scope of services, costs of performance or Project schedule, the Work or Deliverable will nonetheless be performed as directed by City. However, before any altered or modified Work begins, a Change Order or Amendment must be approved and executed by City, and executed by CM@Risk. Such Change Order or Amendment will not be effective unless approved by City. Additions to, modifications or deletions from the Project provided herein may be made, and the compensation to be paid to CM@Risk may be adjusted accordingly solely at the discretion of City. No claim for extra Work done or materials furnished by CM@Risk will be allowed by City except as provided herein, nor will CM@Risk do any work or furnish any material(s) not covered by this Contract unless such work or material is previously authorized in writing by City. Work or material(s) furnished by CM@Risk without such prior written authorization shall be at CM@Risk's sole jeopardy, cost and expense, and CM@Risk hereby agrees that without prior written authorization no claim for compensation for such work or materials furnished will be made.

22. SUCCESSORS AND ASSIGNS

This Contract shall not be assignable except by the prior written approval of City, and it shall extend to and be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

23. COMPLETENESS AND ACCURACY OF CM@RISK'S WORK

CM@Risk is solely responsible for the completeness and accuracy of all reviews, reports, supporting data and other design phase Deliverables prepared or compiled pursuant to its obligations under this Contract, and will at its sole expense correct its Work or Deliverables. Acceptance or approval of CM@Risk's Work or Deliverables by City does not relieve or diminish CM@Risk's responsibilities under the Contract nor does this requirement to correct the Work or Deliverable constitute a waiver of any claims or damages otherwise available in law or in equity to City.

24. DISSEMINATION OF DATA

24.1. The parties agree that all Data obtained by or transmitted to CM@Risk in connection with CM@Risk's performance of this Contract are the sole property of City.

24.2. CM@Risk shall not divulge Data to any third party without prior written consent of City. CM@Risk will not use the Data for any purposes except to perform the services required under this Contract. However, these prohibitions do not apply to the following Data, provided CM@Risk first provides the required notice to City:

24.2.1. Data which were known to CM@Risk prior to its performance under this Contract unless such Data was acquired in connection with Work performed for City;

24.2.2. Data which was acquired by CM@Risk in its performance under this Contract and which was disclosed to CM@Risk by a third party, who to the best of CM@Risk's knowledge and belief had the legal right to make such disclosure and CM@Risk is not otherwise required to hold such Data in confidence; or

24.2.3. Data which is required to be disclosed by CM@Risk by law, regulation or court order.

24.3. In the event a third party requires or requests CM@Risk to disclose Data or any other information to which CM@Risk became privy as a result of any other contract with City, CM@Risk will first notify City as set forth in this section of the request or demand for such Data. CM@Risk will timely give City sufficient facts such that City has a meaningful opportunity to either first give its consent or take such action that City may deem appropriate to protect such Data or other information from disclosure.

24.4. CM@Risk, unless prohibited by law, within ten (10) days after completion of services for a third party on real or personal property owned or leased by City, will promptly deliver, as set forth in this section, a copy of all Data to City. All Data will continue to be subject to the provisions of this section.

24.5. CM@Risk assumes all liability for maintaining the Data in its possession and agrees to compensate and indemnify City if any of the provisions of this section are violated by CM@Risk, its employees, agents, authorized assigns, subconsultants or Subcontractors. A breach of this section shall be deemed to cause irreparable harm to City that justifies injunctive relief.

25. PROJECT STAFFING

25.1. Prior to the start of any Work or Deliverable under this Contract, CM@Risk will submit to City, an organizational chart for CM@Risk staff and Subcontractors and detailed resumes of key personnel listed in its response to City's request for qualifications or subsequent fee proposals and revisions thereto, to involved in performing the services prescribed in the Contract. Unless otherwise informed, City hereby acknowledges its acceptance of such personnel to perform such Services under this Contract. In the event CM@Risk desires to change such key personnel from performing such services under this Contract, CM@Risk will submit the qualifications of the proposed substituted personnel to City for prior approval. Key personnel includes, but are not limited to, principal-in-charge, project manager, superintendent, project director or those persons specifically identified to perform services of cost estimating, scheduling, value engineering and procurement planning.

25.2. CM@Risk will maintain an adequate number of competent and qualified persons to ensure acceptable and timely completion of the scope of services described in this Contract throughout the period of those services. If City objects, with reasonable cause, to any of CM@Risk's staff, CM@Risk will take prompt

corrective action and, if required, remove such personnel from the Project and replace with other personnel.

26. INDEPENDENT CONTRACTOR

CM@Risk is and shall be an independent contractor and whatever measure of control City exercises over the Work or Deliverables pursuant to the Contract will be as to the results of the Work only. No provision in this Contract will give or be construed as establishing an employer/employee relationship, partnership or joint venture, between City and CM@Risk, or cause City to be responsible in any way for the debts or obligations of CM@Risk. CM@Risk must comply with all applicable laws and ordinances pertaining thereto.

27. SUBCONTRACTORS

Prior to beginning any Work or Deliverables, CM@Risk will furnish to City the names of all Subcontractors to be used on this Project. This provision shall in no way be deemed to diminish CM@Risk's responsibility for Subcontractor or impose liability upon City for the contracting with any Subcontractor.

28. LABOR

CM@Risk agrees and covenants to use only licensed Subcontractors in the making and/or installation of any and all repairs, alterations, improvements or other work of CM@Risk on the Project. CM@Risk shall be liable to City for any losses and liabilities associated with any violation of this provision, and the Contract shall immediately be terminated upon any violation hereof by CM@Risk.

29. WITHHOLDING PAYMENT

City, pursuant to and in accordance with A.R.S. § 34-601 *et seq.*, as they may be amended from time to time, reserves the right to withhold funds from Progress Payments up to the amount equal to resolve claims City may have against CM@Risk, until such time as the settlement on those claims is reached.

30. TERMINATION

30.1. In addition to MAG Specifications 108.11 and A.R.S. § 38-511, City, at its sole discretion, may terminate this Contract for convenience or abandon any portion of the project for which services have not been performed by the Contractor.

30.2. In the event of such termination or abandonment, the CM@Risk shall deliver to City all Drawings, special provisions, field survey notes, reports, estimates and any and all other documents or work product generated by the CM@Risk under the Contract, entirely or partially completed, together with all unused materials supplied by City.

30.3. If City terminates or abandons the Contract, City shall make final payment within sixty (60) days after the CM@Risk has delivered the last of the completed items and City has approved the final fee.

31. RECORDS/AUDIT

31.1. Records of CM@Risk's direct personnel payroll and reimbursable expenses pertaining to this Project and records of accounts between City and CM@Risk will be kept following generally accepted accounting principles, or other and recognized accounting methods at City's sole discretion. City, its authorized representative and/or the appropriate federal agency, reserve the right to audit CM@Risk's records to verify the accuracy and appropriateness of all pricing data, including data used to negotiate this Contract and any attendant Change Orders. City reserves the right to decrease Contract amount and/or payments made on this Contract if, *inter alia*, upon audit of CM@Risk's records, the audit discloses that CM@Risk has provided false, misleading or inaccurate cost and/or pricing data.

31.2. CM@Risk will include a provision in all of its agreements with subconsultants, Subcontractors and Suppliers providing services under this Contract to ensure City, its authorized representative and/or the appropriate governmental agency, has access to the subconsultants', Subcontractors' and Suppliers' records. City reserves the right to decrease Contract amount and/or payments made on this Contract if the above provision is not included in subconsultant, Subcontractor and Supplier contracts and one or more of those parties do not allow City to audit their records to verify the accuracy and appropriateness of pricing data.

32. NOTICES

Unless otherwise provided herein, notices and/or demands under this Contract shall be in writing and will be deemed to have been duly given and received either (a) on the date of service if personally served on the party to whom notice is to be given, or (b) on the third day after the date of the postmark of deposit by first class United States mail, registered or certified, postage prepaid, and properly addressed as follows:

To City:	Andy Goh, P.E. Deputy Public Works Manager/City Engineer City of Tempe Public Works Engineering Division 31 E. 5th Street Tempe, Arizona 85281
To CM@Risk:	Bill Okland Okland Construction Company, Inc. 1700 N. McClintock Drive Tempe, Arizona 85281
To Design Professional:	Bill Williams Engberg Anderson 2 E. Congress Street, Suite 400 Tucson, Arizona 85701

Copy to:	Mark Weber City of Tempe Public Works Engineering Division 31 E. 5th Street Tempe, Arizona 85281

33. COMPLIANCE WITH STATE AND FEDERAL LAWS

33.1. Specially Designated Nationals and Blocked Persons List. CM@Risk represents and warrants to City that neither CM@Risk nor any affiliate or representative of CM@Risk (i) is listed on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Asset Control, Department of the Treasury (OFAC) pursuant to Executive Order No. 13224, 66 Fed.Reg. 49079 ("Order"); (ii) is listed on any other list of terrorists or terrorist organizations maintained pursuant to the Order, the rules and regulations of OFAC or any other applicable requirements contained in any enabling legislation or other related Order(s); (iii) is engaged in activities prohibited in the Order; or (iv) has been convicted, pleaded *nolo contendre*, indicted, arraigned or custodially detained on charges involving money laundering or predicate crimes to money laundering. In addition, CM@Risk certifies that it does not have a scrutinized business operation in either Iran or Sudan.

33.2. Employment Laws. CM@Risk agrees and covenants that it will comply with any and all applicable governmental restrictions, regulations and rules of duly constituted authorities having jurisdiction insofar as the performance of the Work and services pursuant to the Contract, and all applicable safety and employment laws, rules and regulations, including but not limited to, the Fair Labor Standards Act, the Walsh-Healey Act, and the Arizona Fair and Legal Employment Act, along with all laws, rules and regulations attendant thereto. CM@Risk acknowledges that a breach of this warranty is a material breach of this Contract and CM@Risk is subject to penalties for violation(s) of this provision, including termination of this Contract. City retains the right to inspect the documents of any and all contractors, Subcontractors and sub-subcontractors performing work and/or services relating to the Contract to ensure compliance with this warranty. Any and all costs associated with City inspection are the sole responsibility of CM@Risk. CM@Risk hereby agrees to indemnify, defend and hold City harmless for, from and against all losses and liabilities arising from any and all violations thereof.

33.3. Equal Opportunity: City is an equal opportunity, affirmative action employer. CM@Risk hereby covenants that it shall not discriminate unlawfully against any employee or applicant for employment, nor shall it deny the benefits of this Contract, to any person on the basis of race, color, national origin, physical or mental disability, age, sex or veteran status. CM@Risk covenants and agrees that it will comply in all respects with the applicable provisions of the Executive Order 11246, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Vietnam Era

Veterans' Readjustment Assistance Act, the Rehabilitation Act, and any other applicable state and federal statutes governing equal opportunity.

CM@Risk further agrees to include the provisions of this Section in any and all subcontracts hereunder. Any violation of such provisions shall constitute a material breach of this Contract.

34. CONTRACTOR'S LICENSE AND PRIVILEGE TAX LICENSE

Prior to award of the Contract, CM@Risk must provide to City's Public Works/ Engineering Department, its Contractor's license classification and number, its City of Tempe privilege tax license number and its federal tax I.D. number.

35. FORCE MAJEURE

If either party is delayed or prevented from the performance of any service, in whole or part, required under this Contract by reason of acts of God or other cause beyond the control and without fault of that party, financial inability excepted, performance of that act may be excused at City's discretion, but only for the period of the delay. The time for performance of the act will be extended for a period equivalent to the period of delay.

36. NON-WAIVER PROVISION

The failure of either party to enforce any of the provisions of this Contract or to require performance by the other party of any of the provisions of this Contract shall not be construed as a waiver of such provisions nor will it affect the validity of this Contract or any part thereof or the right of either party to thereafter enforce each and every provision.

37. JURISDICTION

This Contract is 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 thereof. An action to enforce any provision of this Contract or to obtain any remedy with respect hereto will be brought in the Superior Court, Maricopa County, Arizona, and for this purpose, each party hereby expressly and irrevocably consents to the jurisdiction and venue of such court.

38. ATTORNEYS' FEES AND COSTS

In the event of any legal action or proceeding arising out of this Contract, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs incurred in such legal action or proceeding, and such fees and costs shall be included in any judgment rendered as determined by the Court. In addition, if any person should institute a claim or action against CM@Risk in which City is made a party defendant, CM@Risk shall indemnify, defend and hold City harmless for, from and against all liability by reason thereof, including reasonable attorney's fees and all costs incurred by City in such action.

39. SURVIVAL

All warranties, representations and indemnifications by CM@Risk will survive the completion or termination of this Contract.

40. MODIFICATION

No supplement, modification or amendment of any term of this Contract will be deemed binding or effective unless in writing and signed by the parties hereto and in conformation with provisions of this Contract except as expressly provided herein to the contrary.

41. SEVERABILITY

If any provision of this Contract or the application thereof to any person or circumstance is held invalid, illegal or unenforceable to any extent, the remainder of this Contract and the application thereof will not be affected and will be enforceable to the fullest extent permitted by law.

42. INTEGRATION

This Contract contains the full agreement of the parties hereto. Any prior or contemporaneous written or oral agreement between the parties regarding the subject matter hereof is merged and superseded hereby.

43. TIME IS OF THE ESSENCE

Time of each of the terms, covenants and conditions of this Contract is hereby expressly made of the essence.

44. THIRD PARTY BENEFICIARY

This Contract will not be construed to give any rights or benefits in the Contract to anyone other than City and CM@Risk. All duties and responsibilities undertaken pursuant to this Contract will be for the sole and exclusive benefit of City and CM@Risk and not for the benefit of any other party.

45. COOPERATION AND FURTHER DOCUMENTATION

CM@Risk agrees to provide City such other duly executed documents as may be reasonably requested by City to implement the intent of this Contract.

46. EXHIBITS

The parties agree that all references to this Contract include all exhibits designated in and attached to this Contract, such exhibits being incorporated into and made an integral part of this Contract for all purposes.

47. CONFLICT IN LANGUAGE

All Work and Deliverables will conform to all applicable City codes, ordinances and requirements. If there is a conflict in interpretation between provisions in this Contract and any Exhibits thereto, the provisions in this Contract will prevail.

48. HEADINGS

The headings used in the Contract are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

49. NON-APPROPRIATION

If funds either appropriated by City Council or otherwise allocated to perform the Work become unavailable for payment by City under this the Contract, City may delay the Work for a period up to six (6) months, after which date if no funds are legally available, the Contract then in effect may be terminated by City at its option. In case of any such delay by City, CM@Risk may suspend performing the design phase services or Work, as applicable. CM@Risk may not terminate the Contract.

50. ASSIGNMENT OF CLAIMS

City and CM@Risk recognize that in actual economic practice overcharges resulting from antitrust violations are in fact borne by City. Therefore, CM@Risk hereby assigns City any and all claims for such overcharges. CM@Risk in all subcontracts shall require all Subcontractors to likewise assign all claims for overcharges to City.

51. DISPUTES

Any failure of City to make a decision within the time limit set forth shall not be construed as acquiescence in all or any part of any CM@Risk claim for relief.

52. SEXUAL HARASSMENT

CM@Risk shall comply with City's current policy regarding sexual harassment. City prohibits sexual harassment by any person on City's premises or at any City affiliated functions.

53. AMENDMENTS

The Contract may not be changed, altered, or amended in any way except in writing signed by duly authorized representatives of CM@Risk and City.

54. CM@RISK RECORDS

CM@Risk agrees to retain all records relating to the Contract. CM@Risk agrees to make those records available at all reasonable times for inspection and audit by City during the term of the Contract and for a period of five (5) years after the completion of the

Contract. The records shall be provided at City Public Works Department, Engineering Division, Tempe, Arizona, or another location designated by City upon reasonable notice to CM@Risk.

55. NO CONSTRUCTION AGAINST DRAFTING PARTY

Each party acknowledges that it has had an opportunity to review the Contract with counsel, and such documents shall not be construed against any party that is determined to have been the drafter of the documents.

56. INTERPRETATION OF CONTRACT DOCUMENTS

56.1. In the event of omissions in the Contract documents, the following shall apply.

56.1.1. If the Contract is not complete as to any minor detail of a required construction system or with regard to the manner of combining or installing of parts, materials, or equipment, but there exists an accepted trade standard for good and skillful construction, pursuant to MAG Specifications or otherwise, such detail shall be deemed to be an implied requirement of the Contract in accordance with such accepted trade standard.

56.1.2. The quality and quantity of parts or materials supplied shall conform to trade standards and be compatible with the type, composition, strength, size and profile of the parts of materials otherwise specified in the Contract documents.

[SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties have executed this Contract this_____ day of _____, 2009.

CITY OF TEMPE, ARIZONA

By:_____
Mayor

By:_____
Public Works Manager

ATTEST:

_____
City Clerk

Recommended By:

_____
Deputy PW Manager/City Engineer

APPROVED AS TO FORM:

_____
City Attorney

CM@Risk warrants that the person who is signing this Contract on behalf of CM@Risk is authorized to do so and to execute all other documents necessary to carry out the terms of this Contract.

CONSTRUCTION MANAGER AT RISK

Okland Construction Company, Inc.

By:_____
Name

Its:_____
Title

_____

Federal I.D. No. / Social Security No.
Certified to be a true and exact copy.

_____
Karen M. Fillmore
Records Specialist

EXHIBIT A

OKLAND
CONSTRUCTION

1700 N. McClintock
Tempe, AZ 85281
Phone 480.990.3330
Fax 480.990.1633
Web www.okland.com

November 24, 2008

Mark A. Weber, P.E.
City of Tempe
31 East Fifth Street
Tempe, AZ 85281

Re: Tempe Public Library Renovation
Pre-construction Ser vices

Dear Mark,

Thank you for the opportunity to propose pre-construction services for the Tempe Public Library Renovation. Please find the attached breakdown of anticipated costs. Please note the following assumptions and clarifications to our proposal.

- Our projected hours are based on pre-construction services running through May 2009. In the event the pre-construction phase runs past the end of June we would appreciate the opportunity to discuss potential added services.
- A $15,000 allowance for demolition and patching is included for building due diligence when preparing estimates.
- A $6,000 allowance has been included to hire Mechanical and Electrical sub consultants to review the design, investigate the existing building, and provide detailed cost and lead analysis.
- All required printing of plans and specifications during pre-construction is included.
- No permit or travel costs are included in this proposal

We would propose a 5% fee for construction services in the event an acceptable GMP is reached.

Thanks again for the opportunity to work with you. If you have any questions please call me at (480) 694-5643.

Sincerely,

Bill Okland
President

MAW

EXHIBIT A

TEMPE PUBLIC LIBRARY RENOVATION
PRE-CONSTRUCTION SERVICES BREAKDOWN
CITY OF TEMPE PROJECT NO. 6702491

OKLAND CONSTRUCTION

NO.	DESCRIPTION	PROFESSIONAL STAFF - HOURS - RATES												EXPENSES	TOTALS
		Principal		Project Director		Public Outreach		Estimator		Project Manager		Superintendent			
		Bill Okland		Glenn Trice		Matt Richards		Rick Horner		Erik Dunn		Wes Mason			
		Rate	$ 95.00	Rate	$ 95.00	Rate	$ 75.00	Rate	$ 85.00	Rate	$ 80.00	Rate	$ 85.00		
		Hrs	Cost	Hrs	Cost	Hrs	Cost	Hrs	Cost	Hrs	Cost	Hrs	Cost		
TASK 1.0 PRELIMINARY DESIGN & PROGRAM															
1.1	Program Kickoff Meeting	0	$ -	0	$ -	0	$ -	0	$ -	0	$ -	0	$ -		$ -
1.2	Workshop - Goals & Objectives	0	$ -	0	$ -	0	$ -	0	$ -	0	$ -	0	$ -		$ -
1.3	User Interviews	0	$ -	0	$ -	0	$ -	0	$ -	0	$ -	0	$ -		$ -
1.4	Review Program	0	$ -	0	$ -	0	$ -	0	$ -	0	$ -	0	$ -		$ -
1.5	Cashflow Projection	0	$ -	0	$ -	0	$ -	0	$ -	0	$ -	0	$ -		$ -
1.6	Printing Costs													$ -	$ -
1.7	Travel - Field Trips not anticipated													$ -	$ -
1.8	Mail & Shipping													$ -	$ -
TASK 1.0 TOTAL COSTS		0		0		0		0		0		0			$ -
														TASK 1.0 TOTAL HOURS	-
TASK 2.0 SCHEMATIC DESIGN															
2.1	Building "Due Diligence"	16	$ 1,520.00	16	$ 1,520.00		$ -	16	$ 1,360.00	16	$ 1,280.00	16	$ 1,360.00		$ 7,040.00
2.2	Prepare Estimates	4	$ 380.00	4	$ 380.00		$ -	40	$ 3,400.00	16	$ 1,280.00		$ -		$ 5,440.00
2.3	Value Engineering	4	$ 380.00	4	$ 380.00		$ -	16	$ 1,360.00	16	$ 1,280.00		$ -		$ 3,400.00
2.4	Constructability Review		$ -		$ -		$ -		$ -	8	$ 640.00	8	$ 680.00		$ 1,320.00
2.5	Systems Comparisons		$ -		$ -		$ -	8	$ 680.00	8	$ 640.00		$ -		$ 1,320.00
2.6	Materials Studies		$ -		$ -		$ -	8	$ 680.00	8	$ 640.00		$ -		$ 1,320.00
2.7	Schedule Development	8	$ 760.00	8	$ 760.00		$ -		$ -	24	$ 1,920.00	8	$ 680.00		$ 4,120.00
2.8	Develop Public Outreach Plan		$ -		$ -	16	$ 1,200.00		$ -		$ -		$ -		$ 1,200.00
2.8	Printing Costs													$ 300.00	$ 300.00
2.9	Travel - Field Trips: Not Anticipated													$ -	$ -
2.10	Mail & Shipping													$ 200.00	$ 200.00
2.11	Building "Due Diligence": HVAC and Electrical Subcontractor Assistance													$ 6,000.00	$ 6,000.00
TASK 2.0 TOTAL COSTS		32		32		16		88		96		32			$ 31,660.00
														TASK 2.0 TOTAL HOURS	296

EXHIBIT A

11/24/2008

TEMPE PUBLIC LIBRARY RENOVATION
PRE-CONSTRUCTION SERVICES BREAKDOWN
CITY OF TEMPE PROJECT NO. 6702491

OKLAND CONSTRUCTION

		PROFESSIONAL STAFF - HOURS - RATES													
		Principal		Project Director		Public Outreach		Estimator		Project Manager		Superintendent			
		Bill Okland		Glenn Trice		Matt Richards		Rick Horner		Erik Dunn		Wes Mason			
		Rate	$ 95.00	Rate	$ 95.00	Rate	$ 75.00	Rate	$ 85.00	Rate	$ 80.00	Rate	$ 85.00		
NO.	DESCRIPTION	Hrs	Cost	Hrs	Cost	Hrs	Cost	Hrs	Cost	Hrs	Cost	Hrs	Cost	EXPENSES	TOTALS
TASK 3.0 DESIGN DEVELOPMENT															
3.1	Building "Due Diligence"		$ -		$ -		$ -		$ -	8	$ 640.00	8	$ 680.00		$ 1,320.00
3.2	Prepare Estimates	4	$ 380.00	4	$ 380.00		$ -	40	$ 3,400.00	16	$ 1,280.00		$ -		$ 5,440.00
3.3	Value Engineering	4	$ 380.00	4	$ 380.00		$ -	16	$ 1,360.00	16	$ 1,280.00		$ -		$ 3,400.00
3.4	Constructability Review		$ -		$ -		$ -		$ -	8	$ 640.00	8	$ 680.00		$ 1,320.00
3.5	Systems Comparisons		$ -		$ -		$ -	8	$ 680.00	8	$ 640.00		$ -		$ 1,320.00
3.6	Materials Studies		$ -		$ -		$ -	8	$ 680.00	8	$ 640.00		$ -		$ 1,320.00
3.7	Update Schedule	4	$ 380.00	4	$ 380.00		$ -		$ -	8	$ 640.00	4	$ 340.00		$ 1,740.00
3.8	Refine Public Outreach Plan		$ -		$ -	16	$ 1,200.00		$ -		$ -		$ -		$ 1,200.00
3.9	Printing Costs													$ 300.00	$ 300.00
3.10	Mail & Shipping													$ 200.00	$ 200.00
TASK 3.0 TOTAL COSTS		**12**		**12**		**16**		**72**		**72**		**20**			**$ 17,560.00**
														TASK 3.0 TOTAL HOURS	**$ 204**
TASK 4.0 SUBCONTRACTOR BIDDING - GMP DEVELOPMENT															
4.1	Establish Sub List	2	$ 190.00	2	$ 190.00		$ -	4	$ 340.00	4	$ 320.00		$ -		$ 1,040.00
4.2	Instructions to Bidders		$ -		$ -		$ -	16	$ 1,360.00	16	$ 1,280.00		$ -		$ 2,640.00
4.3	Trade Scopes		$ -		$ -		$ -	16	$ 1,360.00	16	$ 1,280.00		$ -		$ 2,640.00
4.4	Pre-Bid Library Walk		$ -	4	$ 380.00		$ -	4	$ 340.00	4	$ 320.00		$ -		$ 1,040.00
4.5	Post Bid Sub Interviews	8	$ 760.00	8	$ 760.00		$ -	16	$ 1,360.00	16	$ 1,280.00		$ -		$ 4,160.00
4.6	City Review and GMP Finalization	8	$ 760.00	8	$ 760.00	8	$ 600.00	16	$ 1,360.00	16	$ 1,280.00		$ -		$ 4,760.00
4.7	Printing Costs - Bid Sets													$ 3,000.00	$ 3,000.00
4.8	Mail & Shipping													$ 300.00	$ 300.00
TASK 4.0 TOTAL COSTS		**18**		**22**		**8**		**72**		**72**		**0**			**$ 19,580.00**
														TASK 4.0 TOTAL HOURS	**192**
TASK 5.0 INTERIM PRE-CONSTRUCTION SUPPORT															
5.1	Misc. Meeting Allowance	8	$ 760.00	8	$ 760.00	8	$ 600.00	8	$ 680.00	8	$ 640.00	8	$ 680.00		$ 4,120.00
5.2	Building Patch/Repair Allowance													$ 15,000.00	$ 15,000.00
TASK 5.0 TOTAL COSTS		**8**		**8**		**8**		**8**		**8**		**8**			**$ 19,120.00**
														TASK 5.0 TOTAL HOURS	**48**
TOTAL PRE-CONSTRUCTION SERVICES COSTS															**$ 87,920.00**
														TOTAL PRE-CONSTRUCTION HOURS	**740**

COST BREAKDOWN

Labor (includes subcontractors)	$ 67,620
Expenses (includes demo/repair allowance)	$ 20,300
TOTAL	**$ 87,920**

11/24/2008

CITY OF TEMPE
TEMPE, ARIZONA
DEPARTMENT OF PUBLIC WORKS

AFFIDAVIT OF CONSTRUCTION MANAGER AT RISK
REGARDING
HEALTH INSURANCE

_____,
Arizona

Date_____

Tempe Public Library Renovation
Project No. 6702491

I hereby certify that _____ (name of company) currently has, and all of its major subcontractors/subconsultants, defined as doing work in excess of $30,000.00, will have, during the course of this contract, health insurance for all employees working on this project and will offer health insurance coverage to eligible dependents of such employees, as defined in the accompanying Guidelines. The company's health insurance is as follows:

Name of Insurance Company:_____

Type of Insurance (PPO, HMO, POS, INDEMNITY): _____

Policy No.: _____

Policy Effective Date (MM/DD/YY): _____

Policy Expiration Date (MM/DD/YY): _____

Signed and dated at _____, this _____ day of _____, 2009.

_____
Construction Manager at Risk

By:_____

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

SUBCRIBED AND SWORN to before me this _____ day of _____, 2009.

_____
Notary Public

My commission expires:

_____

City of Tempe
Guidelines for Implementation of Health Insurance

These Guidelines are provided for purposes of implementing Resolution No. 2000.73, which requires all employees of prime consultants, general contractors and major subconsultants and subcontractors to have health insurance and to offer health insurance to their eligible dependants, as determined at the start of each project. Questions regarding these guidelines should be directed to the City of Tempe Engineering Division at (480) 350-8200.

1. All Prime Consultants who enter into a Public Works contract or General Contractors who bid on Public Works projects that are advertised for bid and enter into a contract in excess of $30,000 with the City of Tempe after January 1, 2001, are required to sign an affidavit in the form attached hereto. The prime consultant or general contractor shall require that all major subconsultants or subcontractors, defined as entities doing work in excess of $30,000, comply with the health insurance requirements. In signing the affidavit, prime consultants and general contractors may refer to and rely upon these Guidelines for interpretation.

2. Health insurance is required for permanent employees who work for the consultant/contractor more than one hundred and twenty (120) days in any calendar year. A "work day" consists of any time within a twenty-four hour period, regardless of number of hours, that the individual is paid. This requirement excludes students working part-time who are enrolled in a recognized educational institution. Many companies have a grace period or a qualifying period prior to commencement of insurance coverage, which is acceptable so long as the employee coverage begins by the 120th day of contract signing. Temporary employees will be covered to the same extent as the City of Tempe covers temporary employees as determined at the start of each project.

3. If a contractor is a "Union" shop and withholds union dues from employees for health insurance coverage that is also offered to their eligible dependents and meets all City requirements, the Contractor may so note on the required affidavit.

4. The health insurance requirements herein apply to all employees that are directly involved with the City of Tempe project including support and administrative personnel.

5. Health insurance coverage must be maintained during the entire time of the contract, including any warranty periods, with the City.

6. All complaints concerning violations of the health insurance requirements shall be filed by an employee, in writing, with the Public Works Department, within thirty (30) days from discovery of the violation. An administrative hearing will be held before the Public Works Manager, and a written decision of findings will be provided to the parties to the hearing within ten (10) days thereafter. Appeal from the decision

of the Public Works Manager may be made within ten (10) days of the date of the decision by filing a notice of appeal in writing with the Public Works Department. If an appeal is timely filed, an administrative hearing will be held before an administrative hearing officer appointed by the City Manager. The decision of the administrative hearing officer shall be final.

7. In the event of a finding by the City of a violation of the insurance provisions, the company in violation of the provision shall be barred from bidding on, or entering into, any public works contract with the City for a minimum period of three (3) years.

8. All consultants and contractors subject to the health insurance requirements shall post, in English and Spanish, notice of the health insurance requirements at their office and at the job site. Signs for posting will be provided by the City.

These "Guidelines for Implementation of Health Insurance", issued and dated this 21st day of August, 2002, hereby amend all guidelines previously issued.

Glenn Kephart, P.E.
Public Works Manager