



CONSTRUCTION CONTRACT
FOR
CONSTRUCTION MANAGER AT RISK PROJECTS
(MULTIPLE PROJECTS FORM)

Date (type in) Issued:

MULTIPLE ASU PROJECTS UNDER A SINGLE CONTRACT

ASU PROJECT NUMBERS

ASU PROJECT NAMES

NOTE: As provided in Section 7 of the Operating Manual, the Contract Documents become a contract between Owner and CMAR for an individual Project listed above only when (i) a CMAR Construction Contract and the other Contract Documents are executed, and (ii) an Appendix A and any other required documents for that Project are executed by Owner and CMAR.

Request for Qualifications Number _____

OWNER

ARIZONA BOARD OF REGENTS

for and on behalf of

ARIZONA STATE UNIVERSITY

CMAR

DESIGN PROFESSIONAL

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THIS APPENDIX A APPLIES TO FOLLOWING PROJECT ONLY:
PROJECT NUMBER: _____
PROJECT NAME: _____

APPENDIX A

to

Construction Contract Between Owner and Construction Manager at Risk

Specific Terms and Provisions of the Construction Contract

1. Section 2.3: Guaranteed Maximum Price

_____ Dollars (\$_____)

2. Section 2.8: CMAR Construction Phase Fee

_____ Dollars (\$_____)

3. Section 2.8: CMAR Construction Phase Fee percentage

_____ percent (_____%)

4. Section 2.9: Daily amount of general conditions to be paid by Owner for agreed to Owner caused delays

_____ Dollars (\$_____)

5. Section 4.3.1: Substantial Completion date

NOTE TO USERS OF THIS DOCUMENT: This date must be AT LEAST 30 days before Owner's date for Final Completion for the Project. This is because this Construction Contract sets a standard Final Completions Date at 30 days after Substantial Completion.

_____, 2_____

6. Section 4.3.4: Interim milestones:

Part of the Work Interim Milestone Date

NOTE TO USERS OF THIS DOCUMENT: If there are interim milestones, fill in the information below as to each milestone. If there are no interim milestones, insert "None".

7. Section 4.6: Per calendar day liquidated damages for failure to meet Substantial Completion date requirements:

_____ dollars (\$_____)

8. Section 4.6: Per calendar day liquidated damages for failure to meet Final Completion date requirements:

_____ dollars (\$_____)

[NOTE TO USERS OF THIS DOCUMENT: If liquidated damages are to be applicable to any interim milestone dates set forth in Section 4.3.4, Section 4.5 in the Construction Contract and in this Appendix A will need to be modified accordingly.]

[NOTE TO USERS OF THIS DOCUMENT: Insert the applicable version of Section 4.7 and delete the other version.]

9. Section 4.7: Division of Project into Work Packages or not and applicability of provisions on Work Packages or not.

4.7 The **Owner** has determined that the design and construction of the Project will not be divided into Work Packages. Accordingly, the provisions in the Contract Documents relating to Work Packages do not apply.
[OR]

4.7 The **Owner** has determined that the design and construction of the Project will be divided into Work Packages. The provisions on “**Work Packages**” in **Section 2.12** of the Operating Manual apply.

10. Section 7: Representatives of the Parties.

7. Representatives of the Parties.

7.1 Owner’s Representatives.

7.1.1 Owner designates _____
(Name, address and title)
as its Senior Representative (“**Owner’s Senior Representative**”), which individual has the authority and responsibility for avoiding and resolving disputes under **Section 6.2** of the General Conditions.

7.1.2 Owner designates _____
(Name, address and title)
as it’s representative (“**Owner’s Representative**” or “**OR**”), which individual has the authority and responsibility set forth in the CMAR Construction Contract Documents.

7.2 CMAR’s Representatives.

7.2.1 CMAR designates _____
(Name, address and title)
as its Senior Representative (“**CMAR’s Senior Representative**”), which individual has the authority and responsibility for avoiding and resolving disputes under **Section 6.2** of the General Conditions.

7.2.2 CMAR designates _____
(Name, address and title)
as its representative (“**CMAR’s Representative**”) which individual has the authority and responsibility set forth in the CMAR Construction Contract Documents.

7.2.3 CMAR designates _____
(Name, address and title)
as its construction superintendent (“**Construction Superintendent**”), which individual has the authority and responsibility set forth in the CMAR Construction Contract Documents.

7.2.4 CMAR’s representatives and Construction Superintendent, as approved by the **Owner**, shall not be replaced without the **Owner’s** prior written approval.

11. Section 9.3

Full street or physical address of each location at which Construction Work will be performed:

CMAR

OWNER:
ARIZONA BOARD OF REGENTS
For and on behalf
ARIZONA STATE UNIVERSITY

(Signature)

(Signature)

(Printed Name & Title)

(Printed Name & Title)

Date Signed: _____

Date Signed: _____

OWNER PROJECT MANAGER

Approval by Owner's Facilities Capital Program Management Group project manager:

(Signature)

Construction Contract Between Owner and Construction Manager at Risk

NOTE: The information or contract provisions that go in the numbered blank spaces in this contract are in the respective numbered paragraph in Appendix A attached hereto.

Date: _____

Construction Manager at Risk: _____

Owner: **Arizona Board of Regents for and on behalf of Arizona State University**

CMAR and Owner hereby agree as follows:

1. General.

1.1 The Operating Manual for Construction Manager at Risk Projects ("**Operating Manual**") and the General Conditions are attached hereto as **Exhibits A** and **B**.

1.2 Please see the Operating Manual for definitions of several defined terms. All terms defined in the Operating Manual or in any of the other CMAR Construction Contract Documents will have the same meanings when used herein. If not specifically defined, terms, words and phrases in the CMAR Construction Contract Documents will have their ordinary and common meaning, with undefined words, phrases and abbreviations interpreted consistent with construction and design industry standards and technical and trade meanings.

1.3 This agreement is the CMAR Construction Contract as defined in the Operating Manual.

1.4 The CMAR Construction Contract Documents are listed in the Operating Manual.

1.5 The CMAR Construction Contract Documents are complementary and must be interpreted in harmony so as to avoid conflict. In the event of any inconsistency, conflict, or ambiguity, the CMAR Construction Contract Documents shall take precedence in the order in which they are listed in the definition of that term in the Operating Manual.

1.6 The CMAR Construction Contract Documents form the entire agreement between **Owner** and **CMAR** relating to the Construction Work and the CMAR performance of the Construction Work, are hereby incorporated herein by reference and by incorporation herein are as fully binding on the parties as if repeated herein. CMAR Construction Contract Documents supersede all prior discussions and negotiations. The CMAR Construction Contract Documents may be amended or modified only in writing executed by **Owner** and **CMAR**.

2. Construction Work.

2.1 The **Owner** hereby engages the **CMAR** to perform the Construction Work in accordance with the Construction Documents and the other CMAR Construction Contract Documents. The **Owner** will perform all obligations of the **Owner** in the CMAR Construction Contract Documents. The **Owner** will comply with all terms and conditions of the CMAR Construction Contract Documents applicable to **Owner**.

2.2 The **CMAR** agrees to perform the Construction Work in accordance with the Construction Documents and the other CMAR Construction Contract Documents. The **CMAR** will provide such construction services and will also provide all material, equipment, tools, and labor necessary to satisfactorily complete all Construction Work described in and reasonably inferable from the Construction Documents and the other CMAR Construction Contract Documents. The **CMAR** will perform all obligations of the **CMAR** in the CMAR Construction Contract Documents. The **CMAR** will comply with all terms and conditions of the CMAR Construction Contract Documents applicable to **CMAR**.

2.3 The Guaranteed Maximum Price (GMP) for the Construction Work is : _____ (1) _____ Dollars (\$ _____). The GMP is all inclusive of all amounts to be paid by **Owner** for the Construction Work and includes, without limitation, all sales, franchise privilege, use, consumer and other taxes, all fees, all general conditions, all bond and insurance premiums, and all costs of complying with applicable Legal Requirements, all of which will be paid by **CMAR** without reimbursement by **Owner**.

2.4 The GMP Schedule is **Exhibit C** hereto. The GMP Schedule uses the elemental systems allocation of all costs and fees of the Construction Work.

2.5 The Schedule of Values is **Exhibit D** hereto.

2.6 The GMP Setting Drawings, Specifications, Assumptions and Clarifications are **Exhibit E** hereto.

2.7 The detailed CPM Schedule for the Construction Work is **Exhibit F** hereto

2.8 The **Owner** will pay the **CMAR** a fee for the Construction Phase ("**CMAR Construction Phase Fee**"). The **CMAR Construction Phase Fee** is included in the GMP and the GMP Schedule. The **CMAR Construction Phase Fee** will be _____ (2) _____ Dollars (\$ _____ (2) _____). The percentage used to compute the **CMAR Construction Phase Fee** is _____ (3) _____ percent (_____ (3) _____%) of the **CMAR Construction Phase Fee Base Amount**. The "**CMAR Construction Phase Fee Base Amount**" means the sum of the amounts in line items in the GMP Schedule covering Construction Work to be performed by **Subcontractors** or to be self-performed by the **CMAR**, if the **CMAR** is permitted to self-perform any Construction Work, as such amounts may be modified from time to time due to changes in the GMP.

2.9 The daily amount payable by **Owner** to **CMAR** in accordance with the **CMAR Contract Documents** for general conditions for agreed to **Owner**-caused delays in the Project is _____ (4) _____ Dollars (\$ _____ (4) _____). This amount includes any amount **CMAR** believes necessary to cover possible general conditions claims of **Subcontractors** arising from agreed to **Owner**-caused delays. In setting the amount to be paid by **Owner** to **CMAR** for **Owner**-caused construction delays, **CMAR** has taken into account any amount **CMAR** anticipates that it might need to deal with possible **Subcontractor** claims for extended general conditions relating to **Owner**-caused delays. **CMAR** will be solely responsible and **Owner** will have no responsibility for claims by **Subcontractors** for extended general conditions relating to **Owner**-caused delays. For agreed-to **Owner**-caused construction delays **CMAR** will provide all the necessary extended general conditions for the foregoing daily amount. **Owner**-caused construction delays do not include delays resulting from suspension of the Construction Work by **Owner** under **Section 7.1** of the General Conditions.

3. Ownership of Documents

3.1 The **Owner**, through its separate agreement with the **Design Professional**, shall own all drawings, specifications, and other documents and electronic data furnished by **DP**. **CMAR** shall have no right or interest in such documents, except for the right to use them in rendering services during the Construction Phase.

3.2 The **Owner** shall also own any and all Construction Cost Estimates and other estimates and all schedules, value engineering submissions, or other work product furnished by **CMAR** or **DP** to **Owner**.

4. Contract Time

4.1 **Owner** and **CMAR** mutually agree that time is of the essence with respect to the dates and times set forth in the **CMAR Construction Contract Documents**. **CMAR** agrees that it will complete the Construction Work within the applicable Contract Times (defined below), as adjusted in accordance with the **CMAR Construction Contract Documents**. **CMAR** understands that the time(s) for completion(s) set forth in these documents are essential to the **Owner** and a material consideration to the **Owner** in executing this **CMAR Construction Contract**.

"**Contract Time(s)**" means, as to the entire Construction Work and as to any portion of the Construction Work that the **Owner** has agreed to accept separately, (I) the Date of Commencement, (II) any interim milestone

Substantial Completion or Final Completion or both of the entire Construction Work or of any portion of the Construction Work that the **Owner** has agreed to accept separately on or after the respective established date.

4.7 _____ (9) _____.

5. **Record Keeping and Financial Controls.** With respect to all Construction Work performed by **CMAR** and its **Subcontractors**, **CMAR** and its **Subcontractors** shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management, using accounting and control systems approved by the **Owner**. During performance of the Construction Work and for five (5) years after final payment for the entire Construction Work, the **CMAR** shall retain and shall also require all **Subcontractors** to retain for review and/or audit by the **Owner** all correspondence, meeting minutes, memoranda, electronic media, books, accounts, reports, files, time cards, material invoices, payrolls, and evidence of all communications, direct and indirect costs and all other matter related to the Construction Work. Upon request by the **Owner**, a legible copy or the original of any or all such records shall be produced by the **CMAR** at any time during or after the Construction Work as the **Owner** may request. The **CMAR** shall submit to the **Owner** upon request all payrolls, reports, estimates, records and any other data concerning Construction Work performed or to be performed and concerning materials supplied or to be supplied, as well as **Subcontractor** payment applications or invoices and such **Subcontractor's** progress payment checks. The requirements of this **Section 5** shall be included in all contracts between the **CMAR** and its **Subcontractors**.

6. **Termination and Suspension.** The rights of **Owner** and the **CMAR** to terminate and suspend this CMAR Construction Contract are in **Article 7** of the General Conditions. Among other rights, the **Owner** has the right to terminate or suspend this CMAR Construction Contract for convenience.

7. **Representatives of the Parties.** _____ (10) _____

8. **Bonds and Insurance.**

8.1 **Insurance.** **CMAR** shall procure the insurance coverages required by **Article 4** of the General Conditions. Insurance certificates shall be submitted to **Owner** at the times specified in **Section 4.5** of the General Conditions.

8.2 **Bonds.** **CMAR** shall provide performance and payment bonds as provided in **Section 4.1** of the General Conditions. The bonds shall be in the forms in **Exhibit A** to the General Conditions.

9. **Other Provisions.**

9.1 Any **Subcontractors** submitted and approved as pre-qualified by **Owner**, any **Subcontractors** selected by bidding, and any Early Selected Subcontractors shall not be replaced without the **Owner's** prior written approval. Any additional costs due to an approved change of **Subcontractor** without a change in the scope of Project or a change in the Construction Documents shall be the **CMAR's** responsibility and shall not be the **Owner's** responsibility and will not increase the Guaranteed Maximum Price or extend the Contract Time(s).

9.2 **CMAR** represents that it has the necessary financial resources to fulfill its obligations under the CMAR Construction Contract Documents and has the necessary corporate approvals to execute the CMAR Construction Documents and perform the Construction Work

9.3 The Construction Work will be performed at the following full street or physical address: (11) . **CMAR** agrees to include this information in its contract with each **Subcontractor** and to require each **Subcontractor** at all levels to include this information with each of its **Subcontractors**.

10. **Additional Approvals of Arizona Board of Regents and Others.** The Project has been given an initial approval by the Arizona Board of Regents ("ABOR"). This approval permits the Owner to proceed through a portion of the design phase of the Project. A second ABOR approval will be required to authorize completion of the design phase. A third ABOR approval is required before Owner may legally obligate itself to construct and pay for the construction of the Project. In addition to the ABOR approvals, approvals by legislative bodies or others may also be required. Anything in the CMAR Construction Contract Documents to the contrary notwithstanding, any obligation of Owner under the CMAR Construction Contract Documents to complete the

design phase and to construct and pay for construction of the Project is subject to Owner obtaining the above-described approvals.

The GMP Schedule, the Schedule of Values, the GMP Setting Drawings, Specifications, Assumptions and Clarifications, and the CPM Schedule attached hereto are intended to supplement and not to modify or change any of the other CMAR Construction Contract Documents. Nothing in the GMP Schedule, the Schedule of Values, the GMP Setting Drawings, Specifications, Assumptions and Clarifications, and the CPM Schedule attached hereto shall or shall be construed to replace or supersede any other provision of any of the other CMAR Construction Contract Documents. If there is a conflict between anything in the GMP Schedule, the Schedule of Values, the GMP Setting Drawings, Specifications, Assumptions and Clarifications, or the CPM Schedule attached hereto and any provision of any other CMAR Construction Contract Document, the provision of the other CMAR Construction Contract Document shall be given effect and the conflicting material in the GMP Schedule, the Schedule of Values, the GMP Setting Drawings, Specifications, Assumptions and Clarifications, or the CPM Schedule attached hereto will not be given effect. Without affecting the generality of the foregoing:

- **All costs and expenses of completing the Construction Work in accordance with the Construction Documents and the other CMAR Construction Contract Documents and all costs and expenses of performing the CMAR’s obligations under the CMAR Construction Contract Documents during the Construction Phase are included in the Guaranteed Maximum Price, and**
- **Nothing in the GMP Schedule, the Schedule of Values, the GMP Setting Drawings, Specifications, Assumptions and Clarifications, or the CPM Schedule attached hereto shall or shall be construed to relieve CMAR of its obligation to complete the Construction Work in accordance with the Construction Documents and the other CMAR Construction Contract Documents or to relieve CMAR of any of its obligations under any of the other CMAR Construction Contract Documents.**

CMAR

(Signature)

(Printed Name & Title)

Date Signed: _____

OWNER:

ARIZONA BOARD OF REGENTS
For and on behalf
ARIZONA STATE UNIVERSITY

(Signature)

(Printed Name & Title)

Date Signed: _____

OWNER PROJECT MANAGER

Approval by Owner's Facilities Capital Program Management Group project manager:

(Signature)

(Printed Name)

APPLIES TO EACH PROJECT

Exhibit A
to
Construction Contract Between Owner and Construction Manager at Risk
Operating Manual for Construction Manager at Risk Projects

[NOTE: Attach a copy of the Operating Manual, which will be in the same form as attached to the CMAR Design Phase Services Contract]

APPLIES TO EACH PROJECT

Exhibit B
to
Construction Contract Between Owner and Construction Manager at Risk
General Conditions

[NOTE: Attach a copy of the General Conditions, which will be in the same form as attached to the CMAR Design Phase Services Contract]

**Exhibit C
to
Construction Contract Between Owner and Construction Manager at Risk**

GMP Schedule

THIS GMP SCHEDULE APPLIES TO FOLLOWING PROJECT ONLY:

PROJECT NUMBER: _____

PROJECT NAME: _____

[NOTE TO USERS: Attach the GMP Schedule]

CMAR

(Signature)

(Printed Name & Title)

Date Signed: _____

OWNER:

ARIZONA BOARD OF REGENTS

For and on behalf

ARIZONA STATE UNIVERSITY

(Signature)

(Printed Name & Title)

Date Signed: _____

OWNER PROJECT MANAGER

Approval by Owner's Facilities Capital Program Management Group project manager:

(Signature)

Exhibit D
to
Construction Contract Between Owner and Construction Manager at Risk

Schedule of Values

THIS SCHEDULE OF VALUES APPLIES TO FOLLOWING PROJECT ONLY:

PROJECT NUMBER: _____

PROJECT NAME: _____

[NOTE TO USERS: Attach the Schedule of Values]

CMAR

(Signature)

(Printed Name & Title)

Date Signed: _____

OWNER:

ARIZONA BOARD OF REGENTS

For and on behalf

ARIZONA STATE UNIVERSITY

(Signature)

(Printed Name & Title)

Date Signed: _____

OWNER PROJECT MANAGER

Approval by Owner's Facilities Capital Program Management Group project manager:

(Signature)

Exhibit E
to
Construction Contract Between Owner and Construction Manager at Risk
GMP Setting Drawings, Specifications, Assumptions and Clarifications

THESE GMP SETTING DRAWINGS, SPECIFICATIONS, ASSUMPTIONS AND CLARIFICATIONS APPLY TO FOLLOWING PROJECT ONLY:

PROJECT NUMBER: _____
PROJECT NAME: _____

[NOTE TO USERS: Attach the GMP Setting Drawings, Specifications, Assumptions and Clarifications]

CMAR

(Signature)

(Printed Name & Title)

Date Signed: _____

OWNER:

ARIZONA BOARD OF REGENTS
For and on behalf
ARIZONA STATE UNIVERSITY

(Signature)

(Printed Name & Title)

Date Signed: _____

OWNER PROJECT MANAGER

Approval by Owner's Facilities Capital Program Management Group project manager:

(Signature)

Exhibit F
to
Construction Contract Between Owner and Construction Manager at Risk

CPM Schedule

THIS CPM SCHEDULE APPLIES TO FOLLOWING PROJECT ONLY:

PROJECT NUMBER: _____

PROJECT NAME: _____

[NOTE TO USERS: Attach the CPM Schedule]

CMAR

(Signature)

(Printed Name & Title)

Date Signed: _____

OWNER:

ARIZONA BOARD OF REGENTS

For and on behalf

ARIZONA STATE UNIVERSITY

(Signature)

(Printed Name & Title)

Date Signed: _____

OWNER PROJECT MANAGER

Approval by Owner's Facilities Capital Program Management Group project manager:

(Signature)
