



WASHOE COUNTY OWNER-CMAR CONSTRUCTION AGREEMENT

This Owner-CMAR Construction Agreement, between the Washoe County, hereinafter referred to as “Owner”, and the Construction Manager at Risk, Q & D Construction LLC hereinafter referred to as “CMAR”, is entered into as of the following date:

Execution Date: January 28, 2020.

Project Identification

Project Name: Our Place - Homeless Housing Project
 GMP #4

Project Address: 310 Galletti Way, Sparks, Nevada

OWNER

Washoe County
1001 East 9th Street
Reno, Nevada 89512
Ph: (775) 229-2875 / Email: kthomas@washoecounty.us

CMAR

Q&D Construction, LLC.
1050 S. 21st Street
Sparks, Nevada 89431
Ph: (775) 353-7017 / Email: tbasta@qdconstruction.com

SCOPE OF WORK

The Scope of work for GMP #4 is site improvements adjacent to all buildings to include ADA access, concrete flatwork for patios and walkways, full perimeter security fencing with access controls and other associated improvements.

ARTICLE 1 – AGREEMENT and GUARANTEED MAXIMUM PRICE

For furnishing all labor, materials, equipment, tools and services, and for doing everything required by this Agreement of which will include other identified Contract Documents, the Owner will pay and the CMAR shall accept a total sum (Project Total Guaranteed Maximum Price) not to exceed:

Cost of the Work (<i>excluding General Conditions</i>)	\$ 801,397.00
CMAR's General Conditions Cost	\$ 209,959.00
CMAR Proposed Fee for Construction Services	\$ 53,308.00
GRAND TOTAL	
CMAR's Proposed Fee Percentage (%) x Cost of Applicable Items	5.0%
CMAR's Contingency	\$ 26,004.00
Owner's Allowance	\$ 28,800.00
Total Guaranteed Maximum Price (GMP)	\$1,119,468.00

SAVINGS SPLIT

	<u>Owner</u>	<u>CMAR</u>
Percentage Split of CMAR's Contingency Savings	85%	15%
Percentage Split of Owner's Allowance	100%	0%
Percentage Split of Other Allowances	100%	0%

CMAR contingency shall be used first for any project changes that are not part of the Contract and/or identified in the Contract Documents.

ARTICLE 2 – INCORPORATED CONTRACT DOCUMENTS

The Owner and the CMAR mutually agree that the following contract documents are incorporated into and made a part of this Agreement by reference:

- CMAR Interview Submittal
- CMAR Fee Proposal
- CMAR Request for Proposal Document
- CMAR General Conditions of the Contract
- Supplemental CMAR General Conditions (*if/when applicable*)
- Prevailing Wage Rates for Washoe County Dated 2019-2020, October
- Performance and Payment Bonds

- Drawings (Deliverable for each Building as shown)
 - Site Design 100% CD Documents Dated: September 20, 2019
- Specifications and Referenced Documents as applies to each individual drawing package listed above
- Additional Addenda
- Change Orders

ARTICLE 3 – CONTRACT TIME

The CMAR shall commence the work on the Project as directed by the Owner in a written Notice to Proceed. After the referenced date of commencement, all work shall be substantially completed and accepted by the Owner within the number of calendar days stipulated below and as set forth in the Notice to Proceed, after which time, the stipulated liquidated damages provisions shall apply.

Total Calendar Days: 120

ARTICLE 4 – LIQUIDATED DAMAGES

The CMAR agrees that time is of the essence of this Agreement and further agrees to satisfactorily complete the Work in accordance with the contract documents within the specified contract time plus any adjustments to the Contract Time resulting from approved Change Orders, and failing to do so, agrees to pay, not as a penalty, but as liquidated damages, the sum stipulated below for each calendar day in excess of the Contract Time stipulated in this Agreement. Liquidated damages shall cease to be assessed on the date of Substantial Completion provided the CMAR completes all punch-list work within the time limit stipulated and acknowledged in writing by Owner Certificate of Substantial Completion. Liquidated damages shall resume if the CMAR does not complete all punch-list work within the time limit stipulated in the Certificate of Substantial Completion.

Liquidated Damages: \$250 per day

ARTICLE 5 – AGREEMENT MODIFICATIONS

This Agreement constitutes the entire agreement between the parties and may be modified only by a written Change Order executed by the parties.

ARTICLE 6 – AGREEMENT TERMS & CONDITIONS

The term Work includes all labor, materials, services, equipment, tools, transportation, power, water, permanent and temporary utilities, connections, provisions for safety, and all incidental and other things necessary to produce the finished construction as described by the Contract Documents.

The CMAR agrees to provide all labor materials, equipment, tools and services necessary, and to do everything required by this Agreement and by the Contract Documents, as necessary to complete all Work required for the Project within the specified contract time.

ARTICLE 7 – CONTRACT DOCUMENTS

The Contract Documents form the agreement between the Owner and the CMAR. The Contract Documents are complementary and what is required by anyone shall be as binding as if required by all.

ARTICLE 8 – EXAMINATION OF DOCUMENTS

Execution of this Agreement by each party shall constitute the representation by each party that they have examined the contents of all contract documents, including the Washoe County General Conditions of the Contract for Construction Manager at Risk (CMAR General Terms and Conditions) and fulfilled representing the aforementioned, that he/she has read and understands the same, and specifically agrees to be bound thereby.

ARTICLE 9 – FINAL PAYMENT

When the Work and all requirements of the Contract Documents are fully and satisfactorily completed, the Owner will pay to the CMAR a final payment consisting of the remaining unpaid balance of the Contract Sum due the CMAR. The acceptance of the final payment by the CMAR shall constitute a full and final release and waiver of all CMAR claims and rights of claim against the Owner relating or pertaining to the Work.

Acceptance of the final payment by the CMAR shall terminate the Owner-CMAR Construction Agreement after which time the applicable terms and conditions for Warranties and Insurance shall continue to apply.

ARTICLE 10 – STATUTORY REQUIREMENTS

This Agreement shall be construed and interpreted according to the laws of the State of Nevada.

ARTICLE 11 – INFORMATION ACCESS

The books, records, documents, and accounting procedures and practices of the CMAR relevant to this Agreement shall be subject to inspection, examination and audit by the State Public Works Division, The State of Nevada, The State Attorney General, and/or the State Legislative Auditor and the Washoe County Community Services Department.

ARTICLE 12 – ASSIGNMENT

The CMAR shall neither assign, transfer, nor delegate any rights, obligations, monies or duties under this Agreement without the prior written consent of the Owner.

ARTICLE 13 – USE OF DOCUMENTS

Any drawings, reports, studies, photographs, negatives, or other documents prepared by the CMAR in the performance of his obligations under this Agreement shall be the exclusive property of the Owner and all such materials shall be remitted to the Owner by the CMAR upon completion, termination, or cancellation of this Agreement. The CMAR shall not use, willingly allow, or cause to have such materials used for any purpose other than the performance of the CMAR's obligations under this Agreement, without the prior written consent of the Owner.

ARTICLE 14 – GOVERNING LAW

Nevada law, without giving effect to its conflicts-of-law principles, governs all adversarial proceedings arising out of this Agreement or the Contract Documents or arising out of the CMAR constructing the Northern Nevada Adult Mental Health Systems Homeless Housing Project. The CMAR may bring a legal action only in a state court of Nevada in Washoe County.

ARTICLE 15 – INDEMNIFICATION

The CMAR agrees to indemnify and save and hold the Owner, its agents and employees harmless from any and all claims, causes of action or liability arising from the performance of this Agreement by the CMAR or the CMAR's agents or employees.

The Owner and the CMAR shall each indemnify the other for any losses principally caused by the indemnifying party.

ARTICLE 16 – INDEPENDENT CONTRACTOR

The parties agree that the CMAR is an independent contractor and that this Agreement is entered into in accordance with NRS Section 284.173, which in pertinent part provides that the CMAR is not a Washoe County employee and that the CMAR will not be entitled to any Washoe County insurance or benefits.

ARTICLE 17 – FAIR EMPLOYMENT PRACTICES

In connection with the performance of work under this Agreement, the CMAR agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation, gender identity or expression, disability, or age. Such agreement shall include, but not be limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

The CMAR further agrees to insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials. Any violation of such provision by the CMAR shall constitute a material breach of this Agreement.

ARTICLE 18 – INSURANCE PROVISIONS

A Certificate of Liability Insurance evidencing the required coverage, as stipulated in the General Conditions of the Contract, shall be filed with the Owner prior to the CMAR mobilizing onto the project site and prior to commencement of any work on the Project.

OWNER

WASHOE COUNTY

By: _____

Print: _____

Title: **Chair, Board of County Commissioners**

Date: _____

CONSTRUCTION MANAGER AT RISK

Q & D Construction LLC.

By: _____

Print: _____

Title: _____

Date: _____