MAYOR
Riley Ramsey

POLICE CHIEF
Paul M. George Jr.

CITY of HARDIN MONTANA

PUBLIC WORKS DIRECTOR
Michael Hurff Jr.

FINANCE OFFICER/CITY CLERK
Andrew Lehr

The City of Hardin is inviting you to a scheduled Zoom meeting.

Council Meeting

of Tuesday, March 3, 2026

Held by virtual meeting and the Public is invited to attend in person.

Topics:

City of Hardin

Law Enforcement Committee Meeting – 03/03/2026 5:30 p.m.

Council Meeting – 03/03/2026 6:30 p.m.

Start Time: 5:30 p.m. Mountain Time

The meeting will open at 5:15 p.m.

If you will be logging into the Council meeting by:

Computer: Please identify yourself by submitting your first and last name by using the "Chat" function.

Phone: Please identify yourself by stating your First and Last Name.

Join Zoom Meeting

https://us02web.zoom.us/j/9897104479?omn=88222211362

Meeting ID: 989 710 4479

One tap mobile

+17193594580,,9897104479# US

+12532050468,,9897104479# US

Dial by your location

- +1 719 359 4580 US
- +1 253 205 0468 US
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 669 444 9171 US
- +1 669 900 9128 US (San Jose)
- +1 309 205 3325 US
- +1 312 626 6799 US (Chicago)
- +1 360 209 5623 US
- +1 386 347 5053 US
- +1 507 473 4847 US
- +1 564 217 2000 US
- +1 646 558 8656 US (New York)
- +1 646 931 3860 US
- +1 689 278 1000 US
- +1 301 715 8592 US (Washington DC)
- +1 305 224 1968 US

Meeting ID: 989 710 4479

Meetings are Audio Recorded ONLY
Montana Legislature House Bill 890

406 North Cheyenne
Hardin MT 59034
(406) 665-9260

Committee Meeting
AGENDA

March 3, 2026

Council Chambers
401 N. Cheyenne
and by virtual meeting

Join Zoom Meeting
https://us02web.zoom.us/j/9897104479?omn=88222211362
Meeting ID: 989 710 4479
One tap mobile
+17193594580,,9897104479# US
+12532050468,,9897104479# US

PUBLIC COMMENT:

- **Law Enforcement Committee Meetings** **5:30 p.m.**
  - Dispatch

Meeting adjourned at _____ P.M.

Meetings are Audio Recorded Only
Montana Legislature House Bill 890

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INTERLOCAL DISPATCH SERVICES AGREEMENT

This Interlocal Agreement [the Agreement] is made and entered into by and between the City of Hardin, a municipal corporation of the State of Montana, [City] and Big Horn County, a political subdivision of the State of Montana [the County], on behalf of the Big Horn County Dispatch Center. The effective date of this Agreement shall be the date upon which the last party executes this Agreement.

WITNESSETH:

The Montana Interlocal Cooperation Act, MCA § 7-11-101 et seq, authorizes cooperation between the County and the City for services that will benefit both parties in a manner that best addresses mutual needs of the parties and in accordance with the geographic, economic and population that influence the needs and development of the whole County community.

The City has utilized an out-of-state dispatch facility for the Hardin Police Department.

The County and City believe that a joint local dispatch is the best option to provide coordinated and knowledgeable dispatch services.

The City has requested that the County provide public safety communications dispatch services [Dispatch Services] to the Hardin Police Department, which the parties agree such services are within the meaning and intent of MCA § 7-11-101 et seq.

The County and City, in the interest of the health, safety and welfare of the residents of the City, deem it advisable to enter into this Agreement for Dispatch Services.

The County collects taxes, through mill levies, to fund Dispatch Services, which includes taxes upon the residents of the City.

The County has decided to execute any future agreements on a fiscal year basis.

NOW, THEREFORE, in consideration of the forgoing, it is agreed as follows:

1. The Big Horn County Dispatch Center [Dispatch Center] shall provide Dispatch Services to the City, within the boundaries of the City of Hardin. The Dispatch Center shall also provide Dispatch Services to the City throughout a five (5) mile radius of the City of Hardin if other law enforcement agencies are not immediately available. The Dispatch Center shall also dispatch the City into Big Horn County upon request of other law enforcement agencies.

2. The Dispatch Services to be provided by the Dispatch Center for the City shall be like Dispatch Services provided for other unincorporated and incorporated areas of Big Horn County, and of the best practices available in the State of Montana. For purposes

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of this Agreement, Dispatch Services includes, but is not limited to, receiving calls for emergency services as the public service answering point, and dispatching the Hardin Police Department. The Dispatch Center shall not prioritize one law enforcement agency with concurrent jurisdiction over another, according to the type or nature of emergency call, and the Dispatch Center shall dispatch the Hardin Police Department to all calls within the city limits of Hardin, Montana. This does not preclude the Dispatch Center from dispatching multiple emergency agencies to the same calls for service.

3. This Agreement shall commence on the effective date herein and end at midnight June 30, 2029. For the term of this Agreement the County shall be responsible for all costs and expenses required to operate and maintain the Dispatch Center for the County and City, and the City shall not be responsible for any remuneration to the County. The parties agree that, prior to expiration of this Agreement either the County or the City may request that the parties meet and negotiate in good faith for a new agreement. Notification must be made in writing and delivered to the other party by December 31, 2028 [Notice Deadline]. Such negotiation may include terms which contemplate payment by the City to the County for continued Dispatch Services for the City. The parties agree that any negotiated payment may include and is not limited to offsets to the County budget for salary and benefits of dispatch employees, including dispatchers, managers, and administrators as well as the cost of overhead, operations, equipment, education, maintenance, repair, upgrades, and all other costs and expenses attributed to the increase in calls for services caused by the establishment of the City Police Department, but not to exceed any annual amount that the City has spent on its own dispatch services in the years 2023-2025. The parties may also agree to renew this Agreement pursuant to its terms, in lieu of a new Agreement. During such negotiations, the parties agree that Dispatch Services to the City shall not cease upon end of this Agreement, and shall continue according to the terms of this Agreement until a new agreement is executed, this Agreement is renewed, or mutually terminated. If neither party notifies the other party of a desire to renegotiate prior to Notice Deadline, then this Agreement shall automatically renew under the same terms, for three years with a new notice deadline and termination date being three years later, and the automatic renewal shall continue, thereafter, subject to future notice deadlines.

   The parties agree that they will each review this contract every five years. The parties agree that failure to review this Agreement by either party is not a breach of contract that allows for termination. The sole remedy for failure to review this Agreement every five years by one party, is notification by the other party that the first party must review this Agreement.

4. The Dispatch Services provided by the County pursuant to this Agreement shall be performed by County personnel within the Dispatch Center. Dispatch Center personnel shall be responsible for maintaining all records relating to services performed. County agrees that the City shall have full access to dispatch records for all calls for services provided to the City, or records necessary for the Hardin Police Department's performance as a law enforcement agency, and for the lawful use by the

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Hardin City Attorney's Office, or the Big Horn County Attorney's Office. The Dispatch Center shall not unreasonable withhold or delay production of such records.

5. The City shall share its Text to 911 program in order that both parties can receive and transmit Text 911 messages simultaneously. The County agrees to authorize to the City use of the County Public Service Answering Point, (PSAP) number solely for that purpose, if needed. If this Agreement is mutually terminated, the City agrees that the Text to 911 program shall become the property of the County, and the County agrees to accept all the obligations of that program, if any.

6. Pursuant to § 7-11-105(1)(f) and § 7-1-201(8), the parties agree to establish a 9-1-1 Advisory Board [Board], with its own set of governing by-laws, in which the County, the City and other agencies which receive Dispatch Services are board members. Each agency shall have one board position. In addition to board positions for the agencies, the City and the County shall each have one additional board member, as well as public membership. There shall be nine (9) voting board members: one from the County Ambulance, one from the Big Horn County Sheriff's Office, one from the County Fire Department, one from the City Fire Department, one from the Hardin Police Department, one from the County appointed by the County, one from the City appointed by the City, one member of the public appointed by the County, and one member of the public appointed by the City. The Dispatch Administrator shall be an non-voting, ex-officio member of the Board.

   The Board shall also have authority to develop, oversee, and approve or disapprove of the policies and procedures of the Dispatch Center. If such policies are in conflict with any County or City policies, or other agreement, such as a collective bargaining agreement, the Board shall work to resolve such conflict. The parties agree that no party may be removed from the Board, or Dispatch Services, unless there is 100% agreement of all parties, including the party to be removed from the Board. The parties agree that the by-laws of the Board shall contain similar terms, and that nothing in the by-laws may contradict this Agreement.

   The County agrees that upon written complaint by the Board, the County shall investigate any such complaint, in good faith, including, but not limited to, complaints against Dispatch Center employees, the Dispatch Administrator, or other County employees. The City agrees that upon written complaint by the Board, the City shall investigate any such complaint, in good faith, including, but not limited to, complaints against the Hardin Police Department, or other City employees. Both parties agree that any such investigations must follow each party's own respective internal policies or collective bargaining agreements, if any.

7. Nothing in this Agreement shall be construed as creating a relationship of employer or employee between the City and the County. This Agreement does not create a principal-agent relationship between the County and the City. The County shall retain all authority for performance of the services covered by this Agreement, including standards of performance by employees, control of personnel, and other matters

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Deleted: The County agrees that the 9-1-1 Advisory Board will have supervisory authority over the Dispatch Administrator, who shall remain an employee of the County, including disciplinary authority and hiring authority, of which the County agrees to be bound by, but no such authority over any other Dispatch employee.

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incidental to performance of any services by the County. Nothing in this Agreement shall make any employee of the City a County employee or any employee of the County a City employee for any purpose, including but not limited to payroll taxes, payment of benefits, Worker's compensation or any other rights or privileges accorded County or City employees by virtue of their employment.

8. Each party to this Agreement shall maintain insurance coverage for their respective scope of services under the terms of this Agreement, as provided for in MCA § 2-9-108. Each party shall indemnify, defend, and hold harmless the other party from any and all losses, claims, causes of action, costs and expenses, including reasonable attorneys' fees, or damage suffered by the other party or a third party as a result of the alleged negligence or intentional acts of the first party or its agents, affiliates, officers, directors or employees.

9. The County does not intend by this Agreement to assume any contractional obligations to anyone other than the City and the City does not intend by this Agreement to assume any contractual obligation to anyone other than the County. The County and the City do not intend that there be any third-party beneficiaries to this Agreement.

10. Any assignment, transfer or subcontracting of this Agreement is prohibited, unless written consent is obtained from the other party.

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11. This Agreement may not be modified, amended, or otherwise altered unless mutually agreed upon in writing by the parties hereto.

12. Neither the County nor the City may not unilaterally terminate this Agreement. If the County terminates, then it is subject to liquidated damages to the City in the amount of $55,000.00, or the cost incurred by the City for re-establishing its own dispatch services, whichever is greater. The City may also seek specific performance, or any other available legal remedy.

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13. This Agreement and the interpretation thereof shall be governed by the laws of the State of Montana. The parties to this Agreement acknowledge that they are bound by all applicable local, state, and federal laws, treaties, and regulations, including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, PL 101-336, Section 504 of Rehabilitation Act of 1973, the Patient Protection and Affordable Care Act, [P.L. 111-48, 124 Stat. 119], and if applicable, 18-5-401, MCA et seq. concerning the Blind Enterprise Program's vending facility rules. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016, the Parties agrees that (i) the hiring of persons, if any, to perform this Agreement will be made on the basis of merit and qualifications and (ii) there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or

expression, national origin, ancestry, age, physical or mental disability, military service or veteran status, or marital status by the persons performing this Agreement.

14. Upon termination of this Agreement, all property, real or personal, software, or subscriptions used in accomplishing this Agreement shall be the property of the party that owned or purchased said property prior to the execution of this Agreement, or that purchased said property after the execution of this Agreement. By way of example, the parties agree that the City has previously purchased and owns mobile and portable radios that will be used as part of execution of this Agreement, and if this Agreement is terminated, the City shall retain ownership of said radios. Likewise, the parties agree that the County has also previously purchased and owns mobile and portable radios, as well as dispatch consoles, and equipment, and if this Agreement is terminated, the County shall retain ownership of said radios and dispatch equipment. If any party purchases any property in the future, that party shall maintain ownership of that property upon termination, unless otherwise agreed upon, in writing. If any property is jointly purchased or leased by the parties to further the purpose of this Agreement, then the parties must first agree, in writing, how said property will be disposed of in the event of termination prior to that property being placed in service.

15. This Agreement constitutes the entire Agreement between the parties with respect to the subject matter and constitutes and supersedes all prior agreements (if any), representations and understandings of the parties, written or oral.

16. The failure of either Party to exercise any right or remedy provided for in this Agreement or to insist upon the strict performance of any provision of this Agreement shall not be a waiver of that party's right to exercise that right or remedy or insist upon the strict performance of that provision and this Agreement in the future.

17. Parties agree that the laws of the State of Montana shall apply to this Agreement, and venue for any dispute shall be in the Montana 22nd Judicial District Court, Big Horn County.

18. If any part of this Agreement is found unenforceable, invalid, illegal, or otherwise void, all other provisions shall be enforceable.

19. Neither party shall be held responsible if the fulfillment of any terms or provisions of this Agreement are delayed or prevented by revolutions or other disorders, wars, acts of enemies, pandemics, epidemics, fires, floods, droughts, acts of Congress, acts of federal agencies, acts of the State of Montana, acts of God, or without limiting the foregoing, by any other cause not within the control of the party whose performance is interfered with, and which by the exercise of reasonable diligence, the party is unable to prevent, whether of the class of causes above enumerated or not.

20. Notices to be provided under this Agreement shall be given in writing either by hand delivery, or deposited in the United States mail, with sufficient postage, to the following persons:

Big Horn County Commissioners P.O. Box 908 Hardin, MT 59034	City of Hardin 406 N. Cheyenne Hardin, MT 59034

This Agreement may be executed in counterparts.

DATED this _____ day of _____, 2026.

BOARD OF COMMISSIONERS
BIG HORN COUNTY, MONTANA

_____
Lawrence Big Hair, Presiding Officer

_____
George Real Bird III, Member

_____
Larry Vandersloot, Member

ATTEST:

_____
Peri Schenderline
Deputy Clerk and Recorder

DRAFT

DATED this _____ day of _____, 2026.

CITY OF HARDIN

_____
Riley Ramsey, Mayor

ATTEST:

_____
Drew Lehr, City Clerk

DRAFT

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   The Board shall also have authority to develop, oversee, and approve or disapprove of the policies and procedures of the Dispatch Center. If such policies are in conflict with any County or City policies, or other agreement such as a collective bargaining agreement, the Board shall work to resolve such conflict. The parties agree that no party may be removed from the Board, or Dispatch Services, unless there is 100% agreement of all parties, including the party to be removed from the Board. The parties agree that the by-laws of the Board shall contain similar terms, and that nothing in the by-laws may contradict this Agreement.

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8. Each party to this Agreement shall maintain insurance coverage for their respective scope of services under the terms of this Agreement, as provided for in MCA § 2-9-108. Each party shall indemnify, defend, and hold harmless the other party from any and all losses, claims, causes of action, costs and expenses, including reasonable attorneys' fees, or damage suffered by the other party or a third party as a result of the alleged negligence or intentional acts of the first party or its agents, affiliates, officers, directors or employees.

9. The County does not intend by this Agreement to assume any contractional obligations to anyone other than the City and the City does not intend by this Agreement to assume any contractual obligation to anyone other than the County. The County and the City do not intend that there be any third-party beneficiaries to this Agreement.

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11. This Agreement may not be modified, amended, or otherwise altered unless mutually agreed upon in writing by the parties hereto.

12. Neither the County nor the City may not unilaterally terminate this Agreement. If the County terminates, then it is subject to liquidated damages to the City in the amount of $55,000.00, or the cost incurred by the City for re-establishing its own dispatch services, whichever is greater. The City may also seek specific performance, or any other available legal remedy.

13. This Agreement and the interpretation thereof shall be governed by the laws of the State of Montana. The parties to this Agreement acknowledge that they are bound by all applicable local, state, and federal laws, treaties, and regulations, including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, PL 101-336, Section 504 of Rehabilitation Act of 1973, the Patient Protection and Affordable Care Act, [P.L. 111-48, 124 Stat. 119], and if applicable, 18-5-401, MCA et seq. concerning the Blind Enterprise Program's vending facility rules. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016, the Parties agrees that (i) the hiring of persons, if any, to perform this Agreement will be made on the basis of merit and qualifications and (ii) there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or

expression, national origin, ancestry, age, physical or mental disability, military service or veteran status, or marital status by the persons performing this Agreement.

14. Upon termination of this Agreement, all property, real or personal, software, or subscriptions used in accomplishing this Agreement shall be the property of the party that owned or purchased said property prior to the execution of this Agreement, or that purchased said property after the execution of this Agreement. By way of example, the parties agree that the City has previously purchased and owns mobile and portable radios that will be used as part of execution of this Agreement, and if this Agreement is terminated, the City shall retain ownership of said radios. Likewise, the parties agree that the County has also previously purchased and owns mobile and portable radios, as well as dispatch consoles, and equipment, and if this Agreement is terminated, the County shall retain ownership of said radios and dispatch equipment. If any party purchases any property in the future, that party shall maintain ownership of that property upon termination, unless otherwise agreed upon, in writing. If any property is jointly purchased or leased by the parties to further the purpose of this Agreement, then the parties must first agree, in writing, how said property will be disposed of in the event of termination prior to that property being placed in service.

15. This Agreement constitutes the entire Agreement between the parties with respect to the subject matter and constitutes and supersedes all prior agreements (if any), representations and understandings of the parties, written or oral.

16. The failure of either Party to exercise any right or remedy provided for in this Agreement or to insist upon the strict performance of any provision of this Agreement shall not be a waiver of that party's right to exercise that right or remedy or insist upon the strict performance of that provision and this Agreement in the future.

17. Parties agree that the laws of the State of Montana shall apply to this Agreement, and venue for any dispute shall be in the Montana 22nd Judicial District Court, Big Horn County.

18. If any part of this Agreement is found unenforceable, invalid, illegal, or otherwise void, all other provisions shall be enforceable.

19. Neither party shall be held responsible if the fulfillment of any terms or provisions of this Agreement are delayed or prevented by revolutions or other disorders, wars, acts of enemies, pandemics, epidemics, fires, floods, droughts, acts of Congress, acts of federal agencies, acts of the State of Montana, acts of God, or without limiting the foregoing, by any other cause not within the control of the party whose performance is interfered with, and which by the exercise of reasonable diligence, the party is unable to prevent, whether of the class of causes above enumerated or not.

20. Notices to be provided under this Agreement shall be given in writing either by hand delivery, or deposited in the United States mail, with sufficient postage, to the following persons:

Big Horn County Commissioners
P.O. Box 908
Hardin, MT 59034

City of Hardin
406 N. Cheyenne
Hardin, MT 59034

This Agreement may be executed in counterparts.

DATED this _____ day of _____, 2026.

BOARD OF COMMISSIONERS
BIG HORN COUNTY, MONTANA

_____
Lawrence Big Hair, Presiding Officer

_____
George Real Bird III, Member

_____
Larry Vandersloot, Member

ATTEST:

_____
Peri Schenderline
Deputy Clerk and Recorder

DATED this _____ day of _____, 2026.

CITY OF HARDIN

_____
Riley Ramsey, Mayor

ATTEST:

_____
Drew Lehr, City Clerk

AGENDA

The City of Hardin
406 N. Cheyenne Avenue
Hardin, MT 59034

March 3, 2026

AUDIO RECORDING BEGINS

MEETING CALLED TO ORDER AT 6:30 P.M.
PLEDGE OF ALLEGIANCE

ROLL CALL: Mayor: _____
Alderpersons: Steven Hopes _____ Clayton Greer _____ Chris Sharpe _____
George Toyne _____ Jeremy Krebs _____ Antonio Espinoza _____

CONSENT AGENDA:
Council Meeting 02/17/2026 Closed Meeting 01/06/26
Claims

PUBLIC COMMENT (agenda items only):

MAYOR:

COMMITTEE REPORTS:

- **Personnel Committee/City Policy**: Mayor
- **Sewer & Water:** Hopes
- **Streets & Alleys:** Hopes
- **Law Enforcement:** Espinoza
- **Parks & Playgrounds:** Krebs
- **Finance/Landfill:** Greer
- **Resolutions and Ordinances:** Sharpe
- **Economic Development:** Toyne

SPECIAL COMMITTEES:
PETITIONS & COMMUNICATIONS:

UNFINISHED BUSINESS:

- Hardin Visitor Info Center – Langlas & Associates Contract

NEW BUSINESS:

- 500 Club – Contribution/Enrollment $ 500
- RD 1780-27 Loan Resolution - $ 2,562,000
- 911 iNet Contract - $ 55,000
- Business License Reimbursement Request – Ken Woody
- Barry Damschen Contract – Amendment NO. 32 $ 7,800
- Northcon, Inc. Pay App #8 – $ 659,057.25
- Impact Fee Advisory Committee Letters of Interest
- Interlocal Dispatch Services Agreement - Big Horn County
- Website Management Recommendation
- Hardin Visitor Info Center – Cushing Terrell

STAFF REPORTS

- **Public Works:**
- **Finance**:
- **Police:** ○ State of the Hardin Police Department Update
- **Legal:**
- **Economic Development:**

RESOLUTIONS & ORDINANCES:

PUBLIC COMMENT:

ANNOUNCEMENTS:

Local Government Review Study Commission Meetings: 3rd Wednesday of each month, TBD Council Chambers

City-County Planning Board: Public Hearing for Zoning Ordinance and Regular Meeting Monday, March 9, 2026 @ 7:00 p.m.in City Council Chambers

City of Hardin Job Openings: Full-time positions: Police Officer & General Laborer – Landfill

CLOSED SESSION - LEGAL

Meeting adjourned at _____P.M.

AUDIO RECORDING ENDS

Additions to the Agenda can be voted on by Council to add to the Agenda for the next Council meeting.
Agenda items will need to be submitted by Wednesday noon before a Tuesday Council meeting.

THE COMMON COUNCIL
CITY of HARDIN, MONTANA

COUNCIL MEETING: The Regular Council Meeting for February 17, 2026 was called to order at 7:01 p.m. with Mayor Riley Ramsey presiding by reciting the Pledge of Allegiance.

The following Aldermen were present: Steven Hopes, George Toyne, Clayton Greer, Jeremy Krebs, Chris Sharpe, Antonio Espinoza.

Also present: Finance Officer/City Clerk Andrew Lehr, Public Works Director Michael Hurff, Jr., Economic Development Director Tina Toyne, Attorney Jordan Knudsen and Police Chief Paul George, Jr.

Also present physically and by virtual meeting: Several members of the public

MINUTES OF THE PREVIOUS MEETINGS & CLAIMS: Greer made the motion to approve the Council minutes as written for February 3, 2026. Motion seconded by Hopes. On a voice vote, the motion was unanimously approved, Sharpe abstained.

Greer motioned to approve the Closed Meeting minutes for February 3, 2026. Motion seconded by Hopes. On a voice vote, the motion was unanimously approved, Sharpe abstained.

Greer made a motion to approve the claims for February 17, 2026.

	CLAIM No.	Monthly Total
December, 2025	33409	$ 90.00
January, 2026	33383-33390,33392-3394,33397-33408 33411-33423, 33431	70,737.29
February, 2026	33391,33395,33410,33424-33430	2,877,087.02
Claims Total (Expenditures)		**2,947,914.31**
January, 2026		**361,764.54**
TOTAL Submitted		**$ 3,309,678.85**

Chris seconded. On a voice vote, the motion was unanimously approved.

PUBLIC COMMENT: N/A

MAYOR:
Mayor Ramsey reported that he has a desire to get the dispatch agreement moving.

COMMITTEE REPORTS:
Personnel Policy/City Policy:

Sewer & Water:
Hopes reported concrete work was performed today and will continue.

Law Enforcement:
Espinoza reported a Law Enforcement Meeting was held at 6:00 p.m. today.

Streets & Alleys:
Hopes reported garbage cans will have to be tracked down with the wind today. Mike will share more information during his report.

Parks & Playgrounds:

Krebs reported a corn hole equipment bid was provided in the packet, and will be discussed. The pavilion is scheduled to be installed next Monday, February 23rd. Randy Koehn has agreed to let the city use the Telehandler. This should be done by end of next week.

Finance/Landfill:

Resolutions & Ordinances:

Economic Development:

SPECIAL COMMITTEES:

PETITIONS & COMMUNICATIONS:

Mayor Ramsey reported there are documents in the packet from Montana Municipal and an MMIA Newsletter. City County Planning Board Minutes are included in the packet.

UNFINISHED BUSINESS: N/A

NEW BUSINESS:

Mayor Ramsey reported several letters of interest for the City/County Planning Board position were received. Mayor Ramsey recommended Karleen Pitsch to the City/County Planning Board. Krebs motioned to vote Karleen Pitsch on the City/County Planning Board. Hopes seconded. On a voice vote, the motion was unanimously approved.

Krebs presented equipment to be purchased for the South Park Project, Lockwood Pre-cast cornhole boards for a price of $5,712.50. The cornhole boards will be concrete, won't run off and hopefully won't be destroyed. There will be four sets, including pavers. They are 2x2 concrete on each side so people aren't walking on the grass. The slab will be large enough that players will not have to throw from the grass, but will be on the concrete slab. Krebs reported in his research a cornhole board was $1,700 plus shipping. The recommended supplier to purchase from is located in Lockwood, MT. Lockwood Precast will deliver for $312.00, Krebs voiced that was a reasonable amount. Lockwood Precast can't place the cornhole boards exactly where we need them, as they would be driving on the grass. They weigh 600 pounds per corn hole board. Krebs reported that he and Hurff have talked about excluding the horseshoe pits, since there is horseshoe pits currently installed at South Park. Further, excluding horseshoes being thrown near where kids are playing in the water will be safer for the community. It was confirmed there is enough money in the budget to purchase at $5,712.50. Krebs motioned to purchase the Cornhole Boards from Lockwood Pre-Case, seconded by Hopes. On a voice vote, the motion was unanimously approved. It was noted that funding for this project is through a grant. There is a $150k grant from Land Water Conservation funds, therefore no general funds will be used. With this purchase, the project is under budget and may be able to fund other items in the park. Fox asked can we get a grant for our streets. Lehr was noted that only a certain amount of funding from the State from Gas Tax is provided to the City for street improvements. There aren't typically grants for just streets, unless the City is interested in taking on more debt. Land Water Conservation funds are typically tied to public areas and parks. The signage at the park will include who the project was funded by. Krebs noted he believes that kids will appreciate the items being installed.

Knudsen reported on the Big Horn Hospital Detainee Hospital Bill in the amount of $89,943.22. Knudsen discussed the jail has a policy stating an inmate must be medically cleared before entering the jail. Knudsen also provided some history of the situation: for the past 3 years the hospital has been sending medical bills to the City. The majority of them included pre-existing conditions that were chronic or other. Sometimes the City gets a medical bill for a couple hundred and sometimes it is $3,000 - 5,000. The City met with the county in November 2025 and met with the hospital at the same time. The Hospital didn't understand what the parameters where, and have since defined them. The Hospital has a policy that if someone complains of chest pains, they must administer care. This is where there is conflict of law. MT Law states pre-existing condition, the City does not pay. This leads to question who is responsible to pay. Generally, it makes sense to that individual or their insurance. Federal Law, which applies to the hospital, states if someone arrives in the company of Law Enforcement, that cannot be charged to Medicaid or IHS. We are at cross-roads at State Law (City) and Federal Law (Hospital). The discussion in November was it's not fair to the Hospital or the City to pay these charges. The Hospital offer is the following:

There is an outstanding bill of $89k, the Hospital has asked the City to pay 53 percent of that bill, as that is the current agreement the Hospital holds with Big Horn County. That percentage has been extended to June 30, 2026, at which time it will need to be negotiated. Knudsen noted the first presented bill had many more charges; it has since been cleaned up. The outstanding bill is not a bill to or for the City, it is an outstanding bill for charges over the past 3 years. Knudsen stated the City is not obligated to pay this outstanding balance. Lehr reported that $25,000 was budgeted in the Grants and Contributions line item in the Public Safety Fund, which is not enough to cover the current outstanding balance. George expressed utilizing the Police Department budget would not be preferred. Espinoza agreed, reporting that the Chief budgeted for the Police Department based on needs of the department to function throughout the year. Knudsen shared the jail does not have the authority to impose this on the Sheriff's Office or the City Police Department, they cannot shut the door on either department. Discussion regarding alternative funds to pay the balance was discussed. Krebs suggested the City return to the Hospital with a counter, stating $25,000 was budgeted, that is the only amount the City has available to pay this balance. Knudsen explained the County did share they received a bill with the 53 percent deduction and they agreed to pay it. Services at alternative locations, such as One Health and IHS were discussed. The Hardin Police Department can go onto the reservation with an arrested individual, but cannot legally go off the reservation, which eliminates IHS as an option, and One Health is not available all day. George explained there was discussion at the County level to potentially use the County Health Nurse or obtain an in-house nurse. Knudsen explained the timeline with the hospital, given discussion regarding the 3-year accrual of bills. Edwards asked does this obligate the City to future payments if it is paid now. Knudsen shared there is no language committing the City to future bills. There is language that says it will be accepted until June 2026, but that is it. Krebs motioned to offer $25,000, as that is what has been budgeted for, Hopes seconded. On a voice vote, the motioned passed. (5/1) Espinoza voting Nay.

Hurff reported on the Landfill Compactor Repair at $12,936.89. The City had a repairman work on the compactor. Greer and Hurff requested a discount and the company verbally agreed to $2,000 if paid in a timely manner. It was not provided in writing in time for the meeting, but the City can look forward to a $2,000 discount. Toyne motioned to authorize payment for up to $12,936.89, with authority for Hurff to negotiate for a lower price. Hopes seconded. On a voice vote, the motioned was unanimously approved.

Lehr reported on the Cash Pledge Report. End of December 2025, main Checking Account $59,321. City Court $30,941.10. Flex Account $3,536.37. First Interstate CDs $2,006,576.76. Enough to cover $3.5M and $6.3M in pledge for those accounts. Landfill Trust does not require a pledge, but the combined accounts were $1.6M. $3.2M in the Main Investment Account, which is covered by the US Government and does not require a pledge. US Bank Trustee Accounts $360,000. $250,000 is covered by FDIC. $87,017.45 covered by the Surety Bond that covers the Trustee amounts over FDIC. Little Horn State Bank – Lehr will discuss with LHSB at the end of the quarter. There is $1,700,000 that needed to be covered by a pledge or a letter of credit. About $50,000 short for what is covered. Otherwise, all other accounts were covered by Pledge or FDIC at the end of December. Hopes motioned to approve the Cash Pledge Report as presented, Greer seconded. On a voice vote, the motioned was unanimously approved.

Lehr reported on the Quarterly Financial Report. The report was created in the ClearGov program. The report typically takes Lehr 3-4 days to prepare, this format took 3 hours to complete. Data had to be sent to ClearGov, then it's imported into the system and cleaned up by ClearGov. Lehr explained each of the accounts included in the report, what has been received and what is still expected, versus the budgeted amount. Greer motioned to approve the Quarterly Financial Report as presented, seconded by Hopes. On a voice vote, the motioned was unanimously approved.

STAFF REPORTS:

Public Works:

Hurff reported the picnic tables for South Park will be put together soon, with the gazebo being installed next week. Streets have been helping the landfill with the ash road and have completed removing material from the triangle. All 3 garbage trucks are running. The landfill burned the tree pile earlier this month and the compactor is running great. There are 7 curb stops on the repair list for the Curb Stop Program and the program is still working great for the residents

Waste Water – Hurff met with Dax last week and created a Work Change Directive for the waste water project. It was proposed to utilize 3 In-House 14-inch HMI Monitors that cost $1,000-

$1,200 each. The spec sheet calls for an Allen-Bradley 10-inch for $8,000-$10,000 each. 3 screens for Allan-Bradley come up to $24,000. If In-Control In-House 14-inch monitors are used, the total would be around $3,000. With the In-House screens, we can replace with a cheaper option, instead of Allen-Bradley. The Plant PLCs will remain on Allen-Bradley software, regardless of the data system. Additionally, Councilman Toyne and the City Staff met on February 17th with the Project Team. They are pouring concrete down there. Plan to have concrete work done by St. Patrick's Day. Hurff reported there were rebar inspection issues, Stahly pushed back and is working to get that remedied. A discussion on stainless steel sleeves also occurred, Stahly will have a sit-down meeting on that topic. A couple RFIs on the UV building from the contractor.

Water Treatment had an In-Control inspection at the Water Plant. The City has a contract for In-Control for regular inspections. Hurff reported the checklist and recommendations from the inspection. Received a letter from DEQ, stating the City needs to continue to monitor for Total Organic Carbon. The City is currently in compliance, no extra sample costs at this time. Wastewater Treatment Plan anticipating compressor issues, will bring quotes to a future council meeting.

Montana State AWOUA Regulations nominated Trevor Lautt for the Operators Momentous Award.

Espinoza asked if the City sold the millings, located on the triangle. Hurff explained he contacted CJ Yochum, and was told the pile wasn't worth anything. Jason Gasvoda was contacted, he shared they aren't worth anything, but may be able to haul them off at no charge.

Hopes asked if the broken concrete benches at the parks will be replaced. Hurff explained when summer help returns, those benches will be changed out or replaced in the parks.

Finance:

Lehr reported the Lodge Grass Project is still in winter shutdown and reviewed funding expended on the project as of December. The City has received funding from Rural Development to make the payment to U.S. Bank for the SRF Interim Loan. The City received $15,000 from MCEP (Montana Coal Endowment Program) towards the Water PER, the remaining balance was paid by ARPA money. Received $45,000 from the Eastern Montana Initiative (EMI) Grant which was used to make updates to the depot. Total project included additional funds from the County and the City. The City was awarded $30,000 from the MCEP Planning grant to partially fund a Capital Improvement Plan. The AFR was accepted by the State. January property taxes received were $774,605, most of which is TIFD (Tax Increment Finance District).

Police:

Police Chief Paul George, Jr. reported over the last 30 days 664 calls for service. Security Checks 220, Traffic Stops 130, Improperly Parked Vehicles 34, Welfare Checks 23. Federal Funded Single-Man Traffic Unit goes into service February 23rd. Offer Stafford was selected to the SHADE Unit "Strategic Highway and Aggressive Driving." Being Federally funded, Officer Stafford will educate the public on safe driving habits, enforce DUI laws, reduce DUI and collision rates and enforce traffic laws. The State has approved the Police Department to purchase the equipment that was requested through that grant, which included nine Preliminary Breath Tests (PBTs). Chief wrote a letter to the State, regarding the speed message trailer. It was accepted with no corrections; the State has drafted a letter to the Federal Government. The trailer will capture motorist data, which Officer Stafford will download and utilize for his traffic study and enforcement.

Chief reported the State has mandated that every Police Department in the State of Montana utilize the Step Overtime form, created by the Chief, and the process in which Drew maintains the finances.

Chief explained roadblocks that have been encountered with graffiti abatement in using individuals on probation, related to Worker's Comp Coverage. The solution is to work with students at the High School who are seeking community service hours. Chief is developing a form to be utilized and Officer Stafford is developing a plan to cover the graffiti. Seeking to collect donations for the equipment, otherwise will be paid for through the Code Enforcement department. There will be some Officer overtime due to supervision. Dollar General is working with their

management to abate graffiti on the back of the building with a mural, which will be done by students. Council discussed the cost of labor through the jail and the roadblocks within that model.

Legal:

Economic Development:

RESOLUTIONS & ORDINANCES:

PUBLIC COMMENT:

Hardin High School Indian Club – inviting the City of Hardin to be a partner for the upcoming community powwow on May 10, 2026 at the Hardin High School Gym. Seeking donations in any form. Recognition: Poster placement (business name and logo), verbal recognition during sponsor announcements and potential Tax Credit benefit. Please make checks payable to Hardin High School Indian Club Powwow. 721 N Miles Ave. Hardin, MT 59034. For questions, please contact Club Sponsor Robyn Shield 406-606-2749.

ANNOUNCEMENTS:

Mayor reported the Local Government Review meetings are the 3rd Wednesday of each month. Business and Pet Licenses were due 2/1. Impact Fee Advisory Committee – receiving letters of interest through 2/18.

Law Enforcement Committee Meeting – Friday 2/20 at 5:45pm at the City Council Chambers. Planning an additional meeting on Thursday 2/26 at 9am (tentative).

The City of Hardin has the following Job Openings: Full-time positions for Police Officers.

Greer motioned to adjourn the meeting at 8:26 p.m. Hopes seconded. On a voice vote, the motion was unanimously approved.

_____

Riley Ramsey, Mayor

ATTEST:

_____

Andrew Lehr, Finance Officer/City Clerk

City of Hardin

Submitted for Approval

March 3, 2026

Month	CLAIM No.	Monthly Total
December, 2025	33438	**$ 77.66**
January, 2026	**33432**, 33500	522,527.56
February, 2026	33433-33437, 33439-33446, 33470, 33478-33499, 33501-**33503**	709,381.25
March, 2026	33447-33469, 33471-33477	65,064.98
TOTAL Submitted		**$ 1,297,051.45**

Claims or Expenditures over $5,000
per Resolution #2189

Vendor	Purpose	Check #	Amount
MORRISON-MAIERLE	Engineering Lodge Grass Project	-99362	13,980.40
NORTHCON, INC	Pay app #7 Waste Water Upgrade Project	-99361	508,547.16
NORTHCON, INC	Pay app #8 Waste Water Upgrade Project	-99350	659,057.25
MONTANA DEPARTMENT OF REVENUE	Contractor's gross receipt for Pay App #8	-99353	6,657.14
STAHLY ENGINEERING & ASSOCIATES INC	Waste Water project, term contract engineering	42472	49,561.51

Approved Previously at February 17, 2026 Meeting

TRACTOR & EQUIPMENT CO	Landfill Compactor repairs	99348	12,417.41

CITY OF HARDIN
Claims Report

For the Accounting Period: December, 2025

Vendor	Claim #	Check	Amount
MT DEPT OF LABOR & INDUSTRY	CL 33438	42424	77.66

CITY OF HARDIN
Claims Report

For the Accounting Period: January, 2026

Vendor	Claim #	Check	Amount
MORRISON-MAIERLE	CL 33432	-99362	13,980.40
NORTHCON, INC	CL 33500	-99361	508,547.16
			522,527.56

CITY OF HARDIN
Claims Report

For the Accounting Period: February, 2026

Vendor	Claim #		Check	Amount
S BAR S SUPPLY	CL	33433	42420	50.00
ROSS MILLER	CL	33434	42421	23.97
ECOLAB INC	CL	33435	42422	90.53
POWER SERVICE INC	CL	33436	42423	1,059.75
FIRST INTERSTATE BANK WM	CL	33437	42461	3,028.09
KEVIN CANNON	CL	33439	42425	15.00
TRACY LITTLE LIGHT	CL	33440	42426	15.00
KYLIE BASTIEN	CL	33441	42427	15.00
ANDREW ALLERDINGS	CL	33442	42428	15.00
SERGIO SALAZAR	CL	33443	42429	15.00
BOB SMITH FORD INC	CL	33444	42430	1,232.78
SHEILA POLLARD	CL	33445	42431	150.00
DESTINATIONIQ	CL	33446	42432	3,083.00
HAWKINS, INC	CL	33470	-99356	733.32
HEALTHEQUITY	CL	33478	-99355	25.00
MONTANA DAKOTA UTILITIES	CL	33479	42467	2,811.08
MOUNTAIN ALARM	CL	33480	42468	464.50
CenturyLink	CL	33481	42457	1,203.95
LYNN'S SUPERFOODS	CL	33482	42464	141.37
ENERGY LABORATORIES INC	CL	33483	42459	3,605.50
RDO EQUIPMENT	CL	33484	42471	152.72
STAHLY ENGINEERING & ASSOCIATES INC	CL	33485	42472	473.00
STAHLY ENGINEERING & ASSOCIATES INC	CL	33486	42472	1,513.75
STAHLY ENGINEERING & ASSOCIATES INC	CL	33487	42472	42.00
TRACTOR & EQUIPMENT CO	CL	33488	-99348	12,417.41
ROSS MILLER	CL	33489	42453	79.11
CITY WATER DEPT	CL	33490	42458	559.22
BEVERLY DASNAW	CL	33491	42456	58.88
MOLLY SPANG	CL	33492	42466	144.50
AMERICAN LEGAL PUBLISHING	CL	33493	42455	366.00
HARDIN DO IT BEST	CL	33494	42462	54.26
FERGUSON WATERWORKS #1701	CL	33495	42460	3,783.41
TOWN & COUNTRY SUPPLY ASSN	CL	33496	42473	1,960.00
ANDREW LEHR	CL	33497	42454	14.99
FIRST INTERSTATE BANK (MASTERCARD)	CL	33498	-99354	932.00
FIRST INTERSTATE BANK (MASTERCARD)	CL	33499	-99358	99.99
NORTHCON, INC	CL	33501	-99350	659,057.25
MONTANA DEPARTMENT OF REVENUE	CL	33502	-99353	6,657.14
FIRST INTERSTATE BANK (MASTERCARD)	CL	33503	-99357	3,237.78
				709,381.25

CITY OF HARDIN
Claims Report

For the Accounting Period: March, 2026

Vendor	Claim #		Check	Amount
JACK WEICHMAN	CL	33447	42433	100.00
BOB SCHOEN	CL	33448	42434	100.00
PAT BRECKENRIDGE	CL	33449	42435	100.00
TERRY BULLIS - MSSB	CL	33450	42436	100.00
DENNIS FOX	CL	33451	42437	100.00
HARRY KAUTZMAN	CL	33452	42438	100.00
ROB BRYSON	CL	33453	42439	100.00
KENTON G KEPP	CL	33454	42440	100.00
JAY LUNDBERG	CL	33455	42441	100.00
DANIEL J KLINGENSTEIN	CL	33456	42442	100.00
LARRY W VANDERSLOOT	CL	33457	42443	100.00
JIM WEDEL	CL	33458	42444	100.00
TIM A WAGNER	CL	33459	42445	100.00
TEDDY J BURROUGHS	CL	33460	42446	100.00
KATHERINE M JOHNSON	CL	33461	42447	50.00
SANDRA K BIERY	CL	33462	42448	50.00
JERRY WEMPLE	CL	33463	42449	100.00
MARK BETTS	CL	33464	42450	100.00
RON NEDENS	CL	33465	42451	100.00
WISPWEST.NET	CL	33466	42475	115.12
U.S. POSTAL SERVICE	CL	33467	42474	500.00
MILLENNIUM ELECTRIC	CL	33468	42465	637.50
CENTURYLINK	CL	33469	-99352	213.15
HEALTHEQUITY	CL	33471	-99351	50.69
KOIS BROTHERS EQUIPMENT CO.	CL	33472	42463	580.00
PENGUIN MANAGEMENT INC	CL	33473	-99349	972.00
Railroad Management Company lll,LLC	CL	33474	42470	458.76
STAHLY ENGINEERING & ASSOCIATES INC	CL	33475	42472	48,133.51
STAHLY ENGINEERING & ASSOCIATES INC	CL	33476	42472	1,428.00
MT DEPARTMENT OF ENVIRONMENTAL QUALITY	CL	33477	42469	10,176.25
				65,064.98

CITY OF HARDIN
Check Report

3/3/2026

Vendor	Claim #	Check	Amount
S BAR S SUPPLY	CL 33433	42420	50.00
ROSS MILLER	CL 33434	42421	23.97
ECOLAB INC	CL 33435	42422	90.53
POWER SERVICE INC	CL 33436	42423	1,059.75
MT DEPT OF LABOR & INDUSTRY	CL 33438	42424	77.66
KEVIN CANNON	CL 33439	42425	15.00
TRACY LITTLE LIGHT	CL 33440	42426	15.00
KYLIE BASTIEN	CL 33441	42427	15.00
ANDREW ALLERDINGS	CL 33442	42428	15.00
SERGIO SALAZAR	CL 33443	42429	15.00
BOB SMITH FORD INC	CL 33444	42430	1,232.78
SHEILA POLLARD	CL 33445	42431	150.00
DESTINATIONIQ	CL 33446	42432	3,083.00
JACK WEICHMAN	CL 33447	42433	100.00
BOB SCHOEN	CL 33448	42434	100.00
PAT BRECKENRIDGE	CL 33449	42435	100.00
TERRY BULLIS - MSSB	CL 33450	42436	100.00
DENNIS FOX	CL 33451	42437	100.00
HARRY KAUTZMAN	CL 33452	42438	100.00
ROB BRYSON	CL 33453	42439	100.00
KENTON G KEPP	CL 33454	42440	100.00
JAY LUNDBERG	CL 33455	42441	100.00
DANIEL J KLINGENSTEIN	CL 33456	42442	100.00
LARRY W VANDERSLOOT	CL 33457	42443	100.00
JIM WEDEL	CL 33458	42444	100.00
TIM A WAGNER	CL 33459	42445	100.00
TEDDY J BURROUGHS	CL 33460	42446	100.00
KATHERINE M JOHNSON	CL 33461	42447	50.00
SANDRA K BIERY	CL 33462	42448	50.00
JERRY WEMPLE	CL 33463	42449	100.00
MARK BETTS	CL 33464	42450	100.00
RON NEDENS	CL 33465	42451	100.00
ROSS MILLER	CL 33489	42453	79.11
ANDREW LEHR	CL 33497	42454	14.99
AMERICAN LEGAL PUBLISHING	CL 33493	42455	366.00
BEVERLY DASNAW	CL 33491	42456	58.88
CenturyLink	CL 33481	42457	1,203.95
CITY WATER DEPT	CL 33490	42458	559.22
ENERGY LABORATORIES INC	CL 33483	42459	3,605.50

CITY OF HARDIN
Check Report

3/3/2026

Vendor	Claim #	Check	Amount
FERGUSON WATERWORKS #1701	CL 33495	42460	3,783.41
FIRST INTERSTATE BANK WM	CL 33437	42461	3,028.09
HARDIN DO IT BEST	CL 33494	42462	54.26
KOIS BROTHERS EQUIPMENT CO.	CL 33472	42463	580.00
LYNN'S SUPERFOODS	CL 33482	42464	141.37
MILLENNIUM ELECTRIC	CL 33468	42465	637.50
MOLLY SPANG	CL 33492	42466	144.50
MONTANA DAKOTA UTILITIES	CL 33479	42467	2,811.08
MOUNTAIN ALARM	CL 33480	42468	464.50
MT DEPARTMENT OF ENVIRONMENTAL QUALITY	CL 33477	42469	10,176.25
Railroad Management Company lll,LLC	CL 33474	42470	458.76
RDO EQUIPMENT	CL 33484	42471	152.72
STAHLY ENGINEERING & ASSOCIATES INC	CL 33485	42472	473.00
STAHLY ENGINEERING & ASSOCIATES INC	CL 33486	42472	1,513.75
STAHLY ENGINEERING & ASSOCIATES INC	CL 33487	42472	42.00
STAHLY ENGINEERING & ASSOCIATES INC	CL 33475	42472	48,133.51
STAHLY ENGINEERING & ASSOCIATES INC	CL 33476	42472	1,428.00
TOWN & COUNTRY SUPPLY ASSN	CL 33496	42473	1,960.00
U.S. POSTAL SERVICE	CL 33467	42474	500.00
WISPWEST.NET	CL 33466	42475	115.12
TRACTOR & EQUIPMENT CO	CL 33488	-99348	12,417.41
PENGUIN MANAGEMENT INC	CL 33473	-99349	972.00
NORTHCON, INC	CL 33501	-99350	659,057.25
HEALTHEQUITY	CL 33471	-99351	50.69
CENTURYLINK	CL 33469	-99352	213.15
MONTANA DEPARTMENT OF REVENUE	CL 33502	-99353	6,657.14
FIRST INTERSTATE BANK (MASTERCARD)	CL 33498	-99354	932.00
HEALTHEQUITY	CL 33478	-99355	25.00
HAWKINS, INC	CL 33470	-99356	733.32
FIRST INTERSTATE BANK (MASTERCARD)	CL 33503	-99357	3,237.78
FIRST INTERSTATE BANK (MASTERCARD)	CL 33499	-99358	99.99
NORTHCON, INC	CL 33500	-99361	508,547.16
MORRISON-MAIERLE	CL 33432	-99362	13,980.40
			1,297,051.45

AIA® Document A133® – 2019

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the third day of March in the year 2026
(In words, indicate day, month, and year.)

BETWEEN the Owner :
(Name, legal status, address, and other information)

City of Hardin
406 N. Cheyenne Ave.
Hardin, MT 59034
406-655-9260

and the Construction Manager:
(Name, legal status, address, and other information)

Langlas & Associates, Inc.
2685 Gabel Road
Billings, MT 59106
406-656-0629

for the following Project :
(Name, location, and detailed description)

Hardin Visitor Information Center
920 North Mitchell Avenue
Hardin, MT 59034

The Architect:
(Name, legal status, address, and other information)

CTA Inc. DBA Cushing Terrell
13 N. 23rd Street
Billings, MT 59101
406-248-7455

The Owner and Construction Manager agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

Preconstruction and potential construction for The Hardin Visitor Information Center per the attached Exhibit #1 – RFP & Related Documents.
The scope is to include phased construction of both the building and site development.

§ 1.1.2 The Project's physical characteristics :
(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

Per the attached Request for Proposals from the City of Hardin and associated information and addendums, Exhibit #1 – RFP & Related Documents.

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§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:
(Provide total and, if known, a line item breakdown.)

$720,000for the Construction of the First Phase.

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

75% Construction Documents – February 2026

.2 Construction commencement date:

TBD – Spring 2026

.3 Substantial Completion date or dates:

To be determined in GMP Amendment at **Exhibit A .**

.4 Other milestone dates:

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

To Be Determined through Preconstruction if required.

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

N/A

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234–2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 Other Project information :
(Identify special characteristics or needs of the Project not provided elsewhere.)

Project will be phased due to funding availability. Phasing to be determined during preconstruction.

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:
(List name, address, and other contact information.)

Alexandria Edwards
Project Manager
City of Hardin
406 N. Cheyenne Ave
Hardin, MT 59034
406-655-9260

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§ 1.1.9 The persons or entities, in addition to the Owner's representative , who are required to review the Construction Manager's submittals to the Owner are as follows:
(List name, address and other contact information.)

No additional designee

§ 1.1.10 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

SK Geotechnical
2511 Holman Avenue
PO Box 80190
Billings, MT 59108
406-652-3930

(Paragraph Deleted)

(Paragraphs Deleted)

§ 1.1.11 The Architect's representative:
(List name, address, and other contact information.)

Shannon Christensen, Principal in Charge
Cushing Terrell
13 N 23rd Street
Billings, MT 59101
406-896-6126

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

Jason Hubbard, Vice President – Eastern District
Langlas & Associates, Inc.
2685 Gabel Road
Billings, MT 59102
406-656-0629

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

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N/A

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

X Early selection and/or procurement of select subcontractors commensurate with project need and as mutually agreed between Construction Manager and Owner.

§ 1.1.15 Other Initial Information on which this Agreement is based:

Per attached Exhibit #1 – RFP & Related Documents

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests and consistent with industry standards in the location of the Project. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.
The Owner recognizes that it has an agreement with the Architect, and Construction Manager does not; as such, Owner has the responsibility to ensure that Architect timely and properly performs the duties and responsibilities which are placed on the Architect in this Agreement.

§ 2.3 General Conditions

§ 2.3.1 For Preconstruction, AIA Document A201™–2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

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§ 2.3.2 For Construction, the general conditions of the contract shall be as set forth in A201–2017, which document is incorporated herein by reference. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for Construction to commence prior to completion of Preconstruction, in which case, both Preconstruction and Construction will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price Amendment relative to any Work. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require. If Construction is to be conducted in Phases, the duties below will apply to the applicable Phase.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other, in relation to the Initial Information set forth, above.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work for each Phase of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction. However, nothing in this provision is intended to place design responsibilities on the Construction Manager without Construction Manager's specific prior written consent to accept design responsibilities.

(Paragraph Deleted)

§ 3.1.4 Project Schedule

When the Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update the Project schedule using the critical path method for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

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§ 3.1.5 Phased Construction
The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates
§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for available alternate options.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers
§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during Preconstruction.

§ 3.1.12 Procurement
The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction to the extent the Construction Manager can reasonably do so. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager and shall timely pay Construction Manager for those early procured items pursuant to

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Construction Manager's invoicing. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with reasonably applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract and consistent with construction industry standards in the location where the Project is located, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities in relation to the Project.

§ 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction services to be provided by the Construction Manager, or reference an exhibit attached to this document

(Describe any other Preconstruction services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

Per Section III. Scope Preconstruction Services included in the RFP and in the attached Exhibit #1 – RFP & Related Documents.

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price shall include an estimate of the costs reasonably expected by Construction Manager to be attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom; however, no cost attributable to such further development and in excess of $5,000 shall be deemed to be reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, or costs that could not be reasonably expected by Construction Manager, all of which, if required, shall be incorporated by Change Order.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

.1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;

.2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;

.3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;

.4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and

.5 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

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§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 With the exception of the Construction Manager's Preconstruction fee, which shall be paid by the Owner monthly as invoiced by Construction Manager for its Preconstruction services, the Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies, of which Construction Manager becomes aware, between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective (if Construction Manager is aware of such enacted, but not yet effective taxes), at the time the Guaranteed Maximum Price Amendment is executed.

§ 3.3 Construction

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction as set forth in Exhibit A. The duties discussed below may apply to the Work by Phase of the Work and will only apply to the Work for which Owner and Construction Manager enter into a GMP Amendment.

§ 3.3.1.2 Construction shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties, or as set forth in Exhibit A. If Exhibit A sets forth commencement of Construction, that shall be the date of commencement. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information reasonably required by the Owner.

§ 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of

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equipment on site, problems that might affect progress of the Work, accidents, injuries, and other information reasonably required by the Owner.

§ 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During Preconstruction, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 4.1.5 During Construction, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness and shall require Architect to do so as well. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's

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performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201–2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 4.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 4.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for Preconstruction and Construction services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows :

(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

Reimbursement of time spent per hourly rates indicated in § 5.1.2, below. Includes the following:
Printing – 1 Each @ $100.00
Advertising – 1 Each @ $200.00
Technology – 1 Each @ $199.21
Misc – 1 Each @ $200.00
Travel – 4 Each @ $1,222.00
Total reimbursements and preconstruction hourly labor total not to exceed $12,000.00

§ 5.1.2 The hourly billing rates for Preconstruction services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Individual or Position	Rate
Senior Project Manager	$100/HR
Project Manager	$90/HR
Superintendent	$90/HR

§ 5.1.2.1 Hourly billing rates for Preconstruction services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

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§ 5.1.3 If Preconstruction services covered by this Agreement have not been completed within three (3) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction services shall be equitably adjusted.

§ 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid twenty five (25) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.
(Insert rate of monthly or annual interest agreed upon.)

1 1/2 %
per month

ARTICLE 6 COMPENSATION FOR CONSTRUCTION SERVICES

§ 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

§ 6.1.2 The Construction Manager's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

6% of the Cost of Work. Fee excludes General Conditions, Insurance, & Tax. If GMP increases to $1,000,000.00 or more, fee will be reduced to 5%.

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

6% of the Cost of the Work. Fee excludes General Conditions, Insurance, & Tax

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

10% of the Cost of Work. Fee excludes, General Conditions, Insurance & Tax

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed the standard rental rate paid at the place of the Project.

§ 6.1.6 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

None

§ 6.1.7 Other:
(Insert provisions for bonus, cost savings or other incentives , if any, that might result in a change to the Contract Sum.)

Other provisions, if any, will be handled in the GMP Amendment.

§ 6.2 Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

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§ 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time, Preconstruction compensation, and/or GMP Amendment as a result of changes in the Work.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction, and the Construction Manager and the Owner shall agree in writing on any reasonable and fair adjustments to the schedule and the GMP that result from the minor change.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The costs described in § 7.1 through § 7.7 shall be assembled into Bid Packages and competitively bid, with the exception of Division 01, General Conditions, which shall be negotiated. The Bid Packages shall be considered a Cost of the Work and will be billed as individual lump sums and itemized individually on the Construction Manager's application for payment G702 form, and the Construction Manager's fee shall be added to them. The Cost of the Work shall include only the items set forth in §§ 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops (which approval shall not be unreasonably withheld). Rates for Construction Manager's workers shall be set forth in the GMP Amendment.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site or the offsite office when working on the Project.

§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

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(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)

As needed for the following personnel:
Project Manager – document control, requests for information, submittals, changes, invoicing, closeout
Asst Project Manager - document control, requests for information, submittals, changes, closeout
Project Engineer - document control, requests for information, submittals, closeout
Safety Officer – safety reporting and documentation
Superintendent – scheduling, planning, daily logs

§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs
Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction
§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items
§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies.

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§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

§ 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

§ 7.6.3 Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201–2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager's Fee or subject to the Guaranteed Maximum Price.

§ 7.6.6 Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval.

§ 7.6.7 Costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

§ 7.6.10 Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work, with the Owner's prior approval.

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.

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§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9. These Costs of the Work, along with the total of the Bid Packages, Allowances, General Conditions, Contingencies, Insurance, Bonds and other costs, shall constitute the Guaranteed Maximum Price.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.8.3 If Construction Manager requests approval from Owner on Costs of the Work and Owner does not timely respond to the request, Owner shall be responsible for all cost increases and schedule delays resulting from Owner's delay. Construction Manager may request cost approvals from the Owner via email, with delivery receipt or response email showing it was received by Owner, and Owner may respond to such requests in the same manner, with delivery receipt or response email showing it was received by Construction

(Paragraph Deleted)

Manager.

§ 7.9 Costs Not To Be Reimbursed

§ 7.9.1 The Cost of the Work shall not include the items listed below:

- **.1** Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- **.2** Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- **.3** Expenses of the Construction Manager's principal office and offices other than the site office;
- **.4** Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- **.5** The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- **.6** Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and

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suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;

.7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;

.8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and

.9 Costs for services incurred during Preconstruction .

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Owner agrees to conduct this review and express any objection timely, recognizing that Subcontractors and/or suppliers may not hold their bids valid for more than a few days. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. Any such audit shall be requested within ten (10) days of Construction Manager's submittal of its final payment application. The Construction Manager shall preserve these records for a period of

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three years after final payment, or for such longer period as may be required by law. The Construction Manager's agreement to be audited shall not be construed as a waiver of the requirements of the MT Prompt Pay Act.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION SERVICES***

§ 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents. Owner may not withhold any part of the payment due pursuant to the Application for Payment, unless the Owner has provided to Construction Manager its written objection, consistent with MT's Prompt Pay Act, to the amount within twenty-one (21) days following the date of the Application for Payment.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the 1st day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 21st day of the samemonth. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than twenty-one (21) days after the Architect receives the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit reasonable evidence required by the Owner or Architect to demonstrate that cash disbursements already made by the Construction Manager on account of the Cost of Work equal or exceed progress payments already received by the Construction Manager, less that portion of those payments attributable to the Construction Manager's Fee, plus costs and Construction Manager's fee for the period covered by the present Application for
Payment.

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may reasonably and timely require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.7 In accordance with AIA Document A201–2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

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§ 11.1.7.1 The amount of each progress payment shall first include:

.1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;

.2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and

.4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017 (but only if the Owner timely provided written objection to the portion of the payment withheld);

.3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017, but only upon timely written notice of objection by Owner to Construction Manager;

.5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.6 Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five Percent (5%)

§ 11.1.8.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

N/A

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

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(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)

N/A

§ 11.1.9 If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 11.1.10 Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

§ 11.1.11 Construction Manager shall determine an acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts accordingly.

§ 11.1.12 In taking action on the Construction Manager's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

11.1.13 The Construction Manager does not accept direct wire transfers/payments to its accounts. If the Construction Manager agrees in writing to accept wire transfers/payments, a third-party wire vendor, such as Bill.com, would need to be used for wires and agreed upon in advance in writing by Construction Manager. Once a method of payment has been established on the Project, it may only be modified in writing by Construction Manager's President or Vice President provided by certified mail to Owner. Any other alleged direction or request to modify the payment arrangement must be brought to Construction Manager's immediate written attention, copied to Catherine Bergman, Langlas & Associates, Inc., 2270 Grant Rd., Billings, MT 59102.

§ 11.1.14 Substantial Completion

§ 11.1.14.1 Substantial Completion shall be as defined in AIA Document A201 General Conditions, Article 8.1.3.

§ 11.1.14.2 When the Construction Manager considers that the Work on a Phase is substantially complete, the Construction Manager shall prepare and submit to the Owner and Architect a comprehensive list of items to be completed or corrected prior to final payment ("the Draft Punchlist"). Failure to include an item on such list does not alter the responsibility of the Construction Manager to complete all Work in accordance with the Contract Documents.

§ 11.1.14.3 Within five (5) days after Construction Manager submits the Draft Punchlist, the Architect and Owner may inspect the Work and may provide to Construction Manager their reasonable changes to the Draft Punchlist. Upon the Owner's and/or Architect's submission of their reasonable changes to the Construction Manager's Draft Punchlist, those reasonable changes shall be made to the Draft Punchlist, and the Draft Punchlist shall become the Final Punchlist. There shall be **only one** Final Punchlist. If the five (5) days runs with no reasonable changes submitted to Construction Manager from the Architect or Owner, the Work for which Construction Manager submitted the Draft Punchlist shall be deemed substantially complete, and the Draft Punchlist shall be the Final Punchlist. At that time, the Architect shall promptly issue the Certificate of Substantial Completion for that date (either 5 days after Construction Manager submits the Draft Punchlist or the date that the Draft Punchlist becomes the Final Punchlist) for that Work. The Certificate of Substantial Completion for that Work shall establish responsibilities of the Owner and Construction Manager for security, maintenance, heat, utilities, damage to the Work and insurance related to that Work, and it shall fix the time within which the Construction Manager shall complete all items on that Final Punchlist. Warranties required by the Contract Documents for that Work shall commence on the date of Substantial Completion of the Work.

§ 11.1.14.4 Upon receipt of the Construction Manager's Draft Punch List, the Architect will within five (5) days make an inspection to determine whether the Work is substantially complete. When the Architect determines that the Work or designated portion thereof is substantially complete, the Architect will promptly notify the Owner and the Construction Manager in writing and the Construction Manager shall issue a Certificate of Substantial Completion

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which shall establish the date of Substantial Completion. If Architect does not timely make this inspection and timely communicate regarding the substantial completion, the Work shall be deemed to be substantially complete 5 days after the Construction Manager submits the Draft Punch List.

§ 11.1.14.5 The Certificate of Substantial Completion shall be submitted to the Owner, and the Owner and the Construction Manager shall provide their written acceptance of responsibilities assigned to them in the Certificate, which acceptance shall not be unreasonably withheld. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to that Work. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents. Occupancy may not occur until these steps have been taken. If occupancy occurs before these steps are taken, the Work shall automatically be deemed substantially complete as of the date occupancy occurs.

§ 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

.1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, to perform seasonal Work (such as landscaping) pursuant to a bond, and to satisfy other requirements, if any, which extend beyond final payment;

.2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and

.3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within ten (10) days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201–2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount, if any, not in dispute, and, if the amount in dispute exceeds $100,000, the Owner shall pay the Construction Manager half the disputed amount, pending resolution of the dispute

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than twenty-one (21) days after the issuance of the Architect's final Certificate for Payment or (b) Owner's representative has signed off on the completion of the Final Punchlist items and Construction Manager has submitted the Final Pay Application, whichever is earlier.

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the

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Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager. However, this provision is not intended to provide the Owner unjust enrichment, and, if Construction Manager incurs costs which result in enrichment to the Owner, Owner shall reimburse Construction Manager those costs with Construction Manager's fee added thereto.

§ 11.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.
(Insert rate of interest agreed upon, if any.)

1 1/2 % per month

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017. However, for Claims arising from or relating to the Construction Manager's Preconstruction services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

N/A

§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Article 15 of AIA Document A201–2017

[X] Litigation in a court of competent jurisdiction

[ ] Other: *(Specify)*

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner.

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§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for completed Preconstruction services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of Construction but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

.1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;

.2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and

.3 Subtract the aggregate of previous payments made by the Owner for Construction services.

§ 13.1.6 To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements) and each such Subcontractor and/or supplier agrees in writing in advance to such an assignment, the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions requesting that Subcontractor consider assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements and each such Subcontractor and/or supplier agrees in writing in advance to such an assignment, as described above, the Owner will reimburse or indemnify the Construction Manager for all costs to Construction Manager arising under the subcontract, purchase order or rental agreement and all costs to Construction Manager arising out of Owner's election to have the subcontracts, purchase orders or rental agreements assigned, plus Construction Manager's fee. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination plus Construction Manager's fee.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

§ 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

.1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;

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.2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager' Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;

.3 Subtract the aggregate of previous payments made by the Owner; and

.4 Subtract the reasonable costs and damages reasonably incurred, or reasonably expected to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

§ 13.2.2.2 To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements) and each such Subcontractor and/or supplier agrees in writing in advance to such an assignment, the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee as follows:
(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner's convenience.)

Construction Manager's actual Cost of the Work expended to date of termination, cost of non-refundable/non-cancellable commitments, costs to make site safe and secure upon termination of the Work, cost of any temporary fence buyout as may be necessary to keep site secure for indefinite period of time, demobilization costs for Construction Manager and Subcontractors, any renewal fees for extended SWPPP permits, plus Construction Manager's Fee on each of the above cost categories.

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as modified, amended or supplemented in the A201-2017 agreed upon by the parties in the modified version of the A201 for this Project or as amended or supplemented by other provisions of the Contract Documents.

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole or any portion thereof without written consent of the other, which shall not be unreasonably withheld. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 14.2.2 The Owner may, after prior written consent of the Construction Manager, , which shall not be unreasonably withheld, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment, and Owner shall reimburse Construction Manager for all reasonable costs, including attorney fees and costs, associated with any such assignment .

§ 14.3 Insurance and Bonds

§ 14.3.1 Preconstruction Phase

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the

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Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than one million dollars ($ 1,000,000) for each occurrence and two million dollars ($ 2,000,000) in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than one million dollars ($1,000,000) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 14.3.1.3 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than one million dollars ($ 1,000,000.00) each accident, one million dollars ($ 1,000,000.00) each employee, and one million dollars ($ 1,000,000.00) policy limit.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than two million dollars ($ 2,000,000.00) per claim and two million dollars ($ 2,000,000.00) in the aggregate.

§ 14.3.1.6 Other Insurance

(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage	Limits

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

§ 14.3.2 Construction

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™–2019 Exhibit B, and elsewhere in the Contract Documents.

(Paragraphs Deleted)

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§ 14.5 Other provisions:

This Agreement shall be governed by the laws of the State of Montana without regard to choice of law. Jurisdiction for any disputes arising out of this Agreement or the Project which is the subject of this Agreement shall be in the county in which the project is located.

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral for this Project. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement :

.1 AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

.2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed

.3 AIA Document A133™–2019, Exhibit B, Insurance and Bonds

.4 AIA Document A201™–2017, General Conditions of the Contract for Construction

(Paragraph Deleted)

.6 Other Exhibits:
(Check all boxes that apply.)

[ ] AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:
(Insert the date of the E234-2019 incorporated into this Agreement.)

[**X**] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
Exhibit #2	Supplementary General Conditions		10

.7 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Exhibit #1 – RFP and Related Documents, dated 12/10/2025, 132 Pages

This Agreement is entered into as of the day and year first written above.

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OWNER *(Signature)*	**CONSTRUCTION MANAGER** *(Signature)*
Riley Ramsey Mayor City of Hardin	Brad SinclairPresident – Eastern District Langlas & Associates, Inc.
(Printed name and title)	*(Printed name and title)*

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PAGE 1

AGREEMENT made as of the third day of March in the year 2026

...

BETWEEN the ~~Owner:~~Owner :

...

City of Hardin
406 N. Cheyenne Ave.
Hardin, MT 59034
406-655-9260

...

Langlas & Associates, Inc.
2685 Gabel Road
Billings, MT 59106
406-656-0629

...

for the following ~~Project:~~Project :

...

Hardin Visitor Information Center
920 North Mitchell Avenue
Hardin, MT 59034

...

CTA Inc. DBA Cushing Terrell
13 N. 23rd Street
Billings, MT 59101
406-248-7455

PAGE 2

TABLE OF ARTICLES

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...

5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION ~~PHASE~~ SERVICES

...

6 COMPENSATION FOR CONSTRUCTION ~~PHASE~~ SERVICES

...

7 COST OF THE WORK FOR CONSTRUCTION~~PHASE~~

...

11 PAYMENTS FOR CONSTRUCTION ~~PHASE~~ SERVICES

...

Preconstruction and potential construction for The Hardin Visitor Information Center per the attached Exhibit #1 – RFP & Related Documents.
The scope is to include phased construction of both the building and site development.

...

§ 1.1.2 The Project's physical ~~characteristics:~~characteristics :

...

Per the attached Request for Proposals from the City of Hardin and associated information and addendums, Exhibit #1 – RFP & Related Documents.

PAGE 3

$720,000for the Construction of the First Phase.

...

75% Construction Documents – February 2026

...

TBD – Spring 2026

...

To be determined in GMP Amendment at **Exhibit A .**

...

To Be Determined through Preconstruction if required.

...

N/A

...

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§ 1.1.7 Other Project ~~information:~~information :

...

Project will be phased due to funding availability. Phasing to be determined during preconstruction.

...

Alexandria Edwards
Project Manager
City of Hardin
406 N. Cheyenne Ave
Hardin, MT 59034
406-655-9260

PAGE 4

§ 1.1.9 The persons or entities, in addition to the Owner's ~~representative,~~ representative , who are required to review the Construction Manager's submittals to the Owner are as follows:

...

No additional designee

...

SK Geotechnical

...

2511 Holman Avenue

...

PO Box 80190

...

Billings, MT 59108

...

406-652-3930

...

~~**.2** Civil Engineer:~~

...

~~**.3** Other, if any:~~

...

~~*(List any other consultants retained by the Owner, such as a Project or Program Manager.)*~~

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...

Shannon Christensen, Principal in Charge
Cushing Terrell
13 N 23rd Street
Billings, MT 59101
406-896-6126

...

Jason Hubbard, Vice President – Eastern District
Langlas & Associates, Inc.
2685 Gabel Road
Billings, MT 59102
406-656-0629

PAGE 5

N/A

...

X Early selection and/or procurement of select subcontractors commensurate with project need and as mutually agreed between Construction Manager and Owner.

...

Per attached Exhibit #1 – RFP & Related Documents

...

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

...

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's ~~interests.~~ interests and consistent with industry standards in the location of the Project. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

...

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The Owner recognizes that it has an agreement with the Architect, and Construction Manager does not; as such, Owner has the responsibility to ensure that Architect timely and properly performs the duties and responsibilities which are placed on the Architect in this Agreement.

...

§ 2.3.1 For ~~the Preconstruction Phase,~~ Preconstruction, AIA Document A201™–2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

PAGE 6

§ 2.3.2 For ~~the Construction Phase,~~ Construction, the general conditions of the contract shall be as set forth in A201–2017, which document is incorporated herein by reference. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

...

The Construction Manager's Preconstruction ~~Phase~~ responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction ~~Phase~~ responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for ~~the~~ Construction ~~Phase~~ to commence prior to completion of ~~the Preconstruction Phase,~~ Preconstruction, in which case, both ~~phases~~ Preconstruction and Construction will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

...

§ 3.1 Preconstruction~~Phase~~

...

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum ~~Price.~~ Price Amendment relative to any Work. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require. If Construction is to be conducted in Phases, the duties below will apply to the applicable Phase.

...

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the ~~other.~~other, in relation to the Initial Information set forth, above.

...

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work for each Phase of the Work.

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...

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during ~~the Construction Phase.~~the Construction. However, nothing in this provision is intended to place design responsibilities on the Construction Manager without Construction Manager's specific prior written consent to accept design responsibilities.

...

~~**§ 3.1.3.3** The Construction Manager shall assist the Owner and Architect in establishing written protocols for the development, use, transmission, reliance, and exchange of digital data, including building information models for the Project.~~

...

When the Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update ~~a Project schedule~~ the Project schedule using the critical path method for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

PAGE 7

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for ~~corrective action.~~available alternate options.

...

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction ~~Phase~~ services for the Owner's review and approval.

...

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction ~~Phase~~ responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

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...

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during ~~the Preconstruction Phase.~~Preconstruction.

PAGE 8

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of ~~construction.~~ construction to the extent the Construction Manager can reasonably do so. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction ~~Manager.~~ Manager and shall timely pay Construction Manager for those early procured items pursuant to Construction Manager's invoicing. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

...

The Construction Manager shall comply with reasonably applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this ~~Contract,~~ Contract and consistent with construction industry standards in the location where the Project is located, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental ~~authorities.~~authorities in relation to the Project.

...

Insert a description of any other Preconstruction ~~Phase~~ services to be provided by the Construction Manager, or reference an exhibit attached to this document

...

(Describe any other Preconstruction ~~Phase~~ services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

...

Per Section III. Scope Preconstruction Services included in the RFP and in the attached Exhibit #1 – RFP & Related Documents.

...

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price ~~includes the costs~~ shall include an estimate of the costs reasonably expected by Construction Manager to be attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom; however, no cost attributable to such further development and in excess of $5,000 shall be deemed to be reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, or costs that could not be reasonably expected by Construction Manager, all of which, if required, shall be incorporated by Change Order.

PAGE 9

§ 3.2.7 ~~The~~ With the exception of the Construction Manager's Preconstruction fee, which shall be paid by the Owner monthly as invoiced by Construction Manager for its Preconstruction services, the Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

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...

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any ~~inconsistencies~~ inconsistencies, of which Construction Manager becomes aware, between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

...

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet ~~effective,~~ effective (if Construction Manager is aware of such enacted, but not yet effective taxes), at the time the Guaranteed Maximum Price Amendment is executed.

...

§ 3.3 Construction~~Phase~~

...

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction ~~Phase.~~as set forth in Exhibit A. The duties discussed below may apply to the Work by Phase of the Work and will only apply to the Work for which Owner and Construction Manager enter into a GMP Amendment.

...

§ 3.3.1.2 ~~The~~ Construction ~~Phase~~ shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the ~~parties.~~ parties, or as set forth in Exhibit A. If Exhibit A sets forth commencement of Construction, that shall be the date of commencement. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

...

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information reasonably required by the Owner.

PAGE 10

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the ~~work,~~ Work, accidents, injuries, and other information reasonably required by the Owner.

...

§ 4.1 Information and Services Required of the Owner

...

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During ~~the Preconstruction Phase,~~ Preconstruction, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also

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furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

...

§ 4.1.4.3 The Owner, ~~when such services are requested,~~ shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

PAGE 11

§ 4.1.5 During ~~the Construction Phase,~~ Construction, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable ~~promptness.~~ promptness and shall require Architect to do so as well. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

...

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for ~~the~~ Preconstruction and Construction ~~Phase~~ services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

...

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION ~~PHASE~~ SERVICES

...

§ 5.1.1 For the Construction Manager's Preconstruction ~~Phase~~ services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as ~~follows:~~follows :

...

Reimbursement of time spent per hourly rates indicated in § 5.1.2, below. Includes the following:
Printing – 1 Each @ $100.00
Advertising – 1 Each @ $200.00
Technology – 1 Each @ $199.21
Misc – 1 Each @ $200.00
Travel – 4 Each @ $1,222.00
Total reimbursements and preconstruction hourly labor total not to exceed $12,000.00

...

§ 5.1.2 The hourly billing rates for Preconstruction ~~Phase~~ services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.

...

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Senior Project Manager	$100/HR
Project Manager	$90/HR
Superintendent	$90/HR

...

§ 5.1.2.1 Hourly billing rates for Preconstruction ~~Phase~~ services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

PAGE 12

§ 5.1.3 If ~~the~~ Preconstruction ~~Phase~~ services covered by this Agreement have not been completed within three (3) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction ~~Phase~~ services shall be equitably adjusted.

...

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid twenty five (25) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

...

1 1/2 %

...

per month

...

ARTICLE 6 COMPENSATION FOR CONSTRUCTION ~~PHASE~~ SERVICES

...

6% of the Cost of Work. Fee excludes General Conditions, Insurance, & Tax. If GMP increases to $1,000,000.00 or more, fee will be reduced to 5%.

...

6% of the Cost of the Work. Fee excludes General Conditions, Insurance, & Tax

...

10% of the Cost of Work. Fee excludes, General Conditions, Insurance & Tax

...

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed ~~percent (%) of~~ the standard rental rate paid at the place of the Project.

...

None

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...

(Insert provisions for bonus, cost savings or other ~~incentives,~~ incentives , if any, that might result in a change to the Contract Sum.)

...

Other provisions, if any, will be handled in the GMP Amendment.

PAGE 13

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract ~~Time~~ Time, Preconstruction compensation, and/or GMP Amendment as a result of changes in the Work.

...

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for ~~Construction.~~Construction, and the Construction Manager and the Owner shall agree in writing on any reasonable and fair adjustments to the schedule and the GMP that result from the minor change.

...

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION~~PHASE~~

...

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The costs described in § 7.1 through § 7.7 shall be assembled into Bid Packages and competitively bid, with the exception of Division 01, General Conditions, which shall be negotiated. The Bid Packages shall be considered a Cost of the Work and will be billed as individual lump sums and itemized individually on the Construction Manager's application for payment G702 form, and the Construction Manager's fee shall be added to them. The Cost of the Work shall include only the items set forth in ~~Sections 7.1 through 7.7.~~§§ 7.1 through 7.7.

...

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

...

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site ~~workshops.~~workshops (which approval shall not be unreasonably withheld). Rates for Construction Manager's workers shall be set forth in the GMP Amendment.

...

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site ~~and performing Work, with the Owner's prior approval.~~or the offsite office when working on the Project.

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As needed for the following personnel:

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Project Manager – document control, requests for information, submittals, changes, invoicing, closeout
Asst Project Manager - document control, requests for information, submittals, changes, closeout
Project Engineer - document control, requests for information, submittals, closeout
Safety Officer – safety reporting and documentation
Superintendent – scheduling, planning, daily logs

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§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9. These Costs of the Work, along with the total of the Bid Packages, Allowances, General Conditions, Contingencies, Insurance, Bonds and other costs, shall constitute the Guaranteed Maximum Price.

...

§ 7.8.3 If Construction Manager requests approval from Owner on Costs of the Work and Owner does not timely respond to the request, Owner shall be responsible for all cost increases and schedule delays resulting from Owner's delay. Construction Manager may request cost approvals from the Owner via email, with delivery receipt or response email showing it was received by Owner, and Owner may respond to such requests in the same manner, with delivery receipt or response email showing it was received by Construction

...

§

...

Manager.

...

§ 7.9 Costs Not To Be Reimbursed

PAGE 17

.9 Costs for services incurred during ~~the Preconstruction Phase.~~Preconstruction .

...

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Owner agrees to conduct this review and express any objection timely, recognizing that Subcontractors and/or suppliers may not hold their bids valid for more than a few days. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

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The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. Any such audit shall be requested within ten (10) days of Construction Manager's submittal of its final payment application. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law. The Construction Manager's agreement to be audited shall not be construed as a waiver of the requirements of the MT Prompt Pay Act.

...

ARTICLE 11 PAYMENTS FOR CONSTRUCTION ~~PHASE SERVICES~~SERVICES***

...

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents. Owner may not withhold any part of the payment due pursuant to the Application for Payment, unless the Owner has provided to Construction Manager its written objection, consistent with MT's Prompt Pay Act, to the amount within twenty-one (21) days following the date of the Application for Payment.

...

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the ~~month, or as follows:~~month.

...

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the 1st day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 21st day of the samemonth. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than twenty-one (21) days after the Architect receives the Application for Payment.

...

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit ~~payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other~~ reasonable evidence required by the Owner or Architect to demonstrate that ~~payments~~ cash disbursements already made by the Construction Manager on account of the Cost of ~~the~~ Work equal or exceed progress payments already received by the Construction Manager, ~~plus payrolls~~ less that portion of those payments attributable to the Construction Manager's Fee, plus costs and Construction Manager's fee for the period covered by the present Application for ~~Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.~~

...

Payment.

...

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§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may reasonably and timely require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

PAGE 19

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document ~~A201–2017;~~A201–2017 (but only if the Owner timely provided written objection to the portion of the payment withheld);

...

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document ~~A201–2017;~~A201–2017, but only upon timely written notice of objection by Owner to Construction Manager;

...

Five Percent (5%)

...

N/A

PAGE 20

N/A

...

§ 11.1.11 ~~The Owner and the Construction Manager shall agree upon a mutually~~ Construction Manager shall determine an acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts ~~in accordance with those agreements.~~accordingly.

...

11.1.13 The Construction Manager does not accept direct wire transfers/payments to its accounts. If the Construction Manager agrees in writing to accept wire transfers/payments, a third-party wire vendor, such as Bill.com, would need to be used for wires and agreed upon in advance in writing by Construction Manager. Once a method of payment has been established on the Project, it may only be modified in writing by Construction Manager's President or Vice President provided by certified mail to Owner. Any other alleged direction or request to modify the payment arrangement must be brought to Construction Manager's immediate written attention, copied to Catherine Bergman, Langlas & Associates, Inc., 2270 Grant Rd., Billings, MT 59102.

...

§ 11.1.14 Substantial Completion

...

§ 11.1.14.1 Substantial Completion shall be as defined in AIA Document A201 General Conditions, Article 8.1.3.

...

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§ 11.1.14.2 When the Construction Manager considers that the Work on a Phase is substantially complete, the Construction Manager shall prepare and submit to the Owner and Architect a comprehensive list of items to be completed or corrected prior to final payment ("the Draft Punchlist"). Failure to include an item on such list does not alter the responsibility of the Construction Manager to complete all Work in accordance with the Contract Documents.

...

§ 11.1.14.3 Within five (5) days after Construction Manager submits the Draft Punchlist, the Architect and Owner may inspect the Work and may provide to Construction Manager their reasonable changes to the Draft Punchlist. Upon the Owner's and/or Architect's submission of their reasonable changes to the Construction Manager's Draft Punchlist, those reasonable changes shall be made to the Draft Punchlist, and the Draft Punchlist shall become the Final Punchlist. There shall be **only one** Final Punchlist. If the five (5) days runs with no reasonable changes submitted to Construction Manager from the Architect or Owner, the Work for which Construction Manager submitted the Draft Punchlist shall be deemed substantially complete, and the Draft Punchlist shall be the Final Punchlist. At that time, the Architect shall promptly issue the Certificate of Substantial Completion for that date (either 5 days after Construction Manager submits the Draft Punchlist or the date that the Draft Punchlist becomes the Final Punchlist) for that Work. The Certificate of Substantial Completion for that Work shall establish responsibilities of the Owner and Construction Manager for security, maintenance, heat, utilities, damage to the Work and insurance related to that Work, and it shall fix the time within which the Construction Manager shall complete all items on that Final Punchlist. Warranties required by the Contract Documents for that Work shall commence on the date of Substantial Completion of the Work.

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§ 11.1.14.4 Upon receipt of the Construction Manager's Draft Punch List, the Architect will within five (5) days make an inspection to determine whether the Work is substantially complete. When the Architect determines that the Work or designated portion thereof is substantially complete, the Architect will promptly notify the Owner and the Construction Manager in writing and the Construction Manager shall issue a Certificate of Substantial Completion which shall establish the date of Substantial Completion. If Architect does not timely make this inspection and timely communicate regarding the substantial completion, the Work shall be deemed to be substantially complete 5 days after the Construction Manager submits the Draft Punch List.

...

§ 11.1.14.5 The Certificate of Substantial Completion shall be submitted to the Owner, and the Owner and the Construction Manager shall provide their written acceptance of responsibilities assigned to them in the Certificate, which acceptance shall not be unreasonably withheld. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to that Work. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents. Occupancy may not occur until these steps have been taken. If occupancy occurs before these steps are taken, the Work shall automatically be deemed substantially complete as of the date occupancy occurs.

...

.1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, to perform seasonal Work (such as landscaping) pursuant to a bond, and to satisfy other requirements, if any, which extend beyond final payment;

...

§ 11.2.2 Within ~~30~~ ten (10) days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

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...

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager ~~the amount certified in the Architect's final Certificate for Payment.~~the amount, if any, not in dispute, and, if the amount in dispute exceeds $100,000, the Owner shall pay the Construction Manager half the disputed amount, pending resolution of the dispute

...

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than ~~30~~ twenty-one (21) days after the issuance of the Architect's final Certificate for ~~Payment, or as follows:~~Payment or (b) Owner's representative has signed off on the completion of the Final Punchlist items and Construction Manager has submitted the Final Pay Application, whichever is earlier.

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§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager. However, this provision is not intended to provide the Owner unjust enrichment, and, if Construction Manager incurs costs which result in enrichment to the Owner, Owner shall reimburse Construction Manager those costs with Construction Manager's fee added thereto.

...

1 1/2 % per month

...

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017. However, for Claims arising from or relating to the Construction Manager's Preconstruction ~~Phase~~ services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

...

N/A

...

[X] Litigation in a court of competent jurisdiction

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§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for completed Preconstruction ~~Phase~~ services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

...

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction ~~Phase~~ services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

...

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of ~~the~~ Construction ~~Phase~~ but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

...

.3 Subtract the aggregate of previous payments made by the Owner for Construction ~~Phase~~ services.

...

§ 13.1.6 ~~The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1.~~ To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental ~~agreements),~~ agreements) and each such Subcontractor and/or supplier agrees in writing in advance to such an assignment, the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions ~~allowing for~~ requesting that Subcontractor consider assignment to the Owner as described above.

...

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements and each such Subcontractor and/or supplier agrees in writing in advance to such an assignment, as described above, the Owner will reimburse or indemnify the Construction Manager for all costs to Construction Manager arising under the subcontract, purchase order or rental ~~agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated.~~ agreement and all costs to Construction Manager arising out of Owner's election to have the subcontracts, purchase orders or rental agreements assigned, plus Construction Manager's fee. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such ~~termination.~~termination plus Construction Manager's fee.

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.4 Subtract the reasonable costs and damages reasonably incurred, or reasonably expected to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

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...

§ 13.2.2.2 ~~The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1.~~ To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental ~~agreements),~~ agreements) and each such Subcontractor and/or supplier agrees in writing in advance to such an assignment, the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

...

Construction Manager's actual Cost of the Work expended to date of termination, cost of non-refundable/non-cancellable commitments, costs to make site safe and secure upon termination of the Work, cost of any temporary fence buyout as may be necessary to keep site secure for indefinite period of time, demobilization costs for Construction Manager and Subcontractors, any renewal fees for extended SWPPP permits, plus Construction Manager's Fee on each of the above cost categories.

...

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as modified, amended or supplemented in the A201-2017 agreed upon by the parties in the modified version of the A201 for this Project or as amended or supplemented by other provisions of the Contract Documents.

...

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole or any portion thereof without written consent of the ~~other.~~ other, which shall not be unreasonably withheld. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

...

§ 14.2.2 The Owner may, ~~without~~ after prior written consent of the Construction Manager, , which shall not be unreasonably withheld, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the ~~assignment.~~assignment, and Owner shall reimburse Construction Manager for all reasonable costs, including attorney fees and costs, associated with any such assignment .

...

§ 14.3 Insurance and Bonds

PAGE 25

§ 14.3.1.1 Commercial General Liability with policy limits of not less than one million dollars ($ 1,000,000) for each occurrence and two million dollars ($ 2,000,000) in the aggregate for bodily injury and property damage.

...

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§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than one million dollars ($1,000,000) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

...

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than one million dollars ($ 1,000,000.00) each accident, one million dollars ($ 1,000,000.00) each employee, and one million dollars ($ 1,000,000.00) policy limit.

...

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than two million dollars ($ 2,000,000.00) per claim and two million dollars ($ 2,000,000.00) in the aggregate.

...

§ 14.3.1.6 Other Insurance

...

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella ~~policies~~ polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

...

§ 14.3.2 Construction~~Phase~~

...

~~**§ 14.4** Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with a building information modeling exhibit, if completed, or as otherwise set forth below:~~

...

~~*(If other than in accordance with a building information modeling exhibit, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)*~~

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This Agreement shall be governed by the laws of the State of Montana without regard to choice of law. Jurisdiction for any disputes arising out of this Agreement or the Project which is the subject of this Agreement shall be in the county in which the project is located.

...

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or ~~oral.~~ oral for this

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Project. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

...

§ 15.2 The following documents comprise the ~~Agreement:~~Agreement :

...

~~.5 Building Information Modeling Exhibit, if completed:~~

...

[**X**] Supplementary and other Conditions of the Contract:

...

Exhibit #2	Supplementary General Conditions	10

...

Exhibit #1 – RFP and Related Documents, dated 12/10/2025, 132 Pages

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Riley Ramsey Mayor City of Hardin	Brad SinclairPresident – Eastern District Langlas & Associates, Inc.

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Brad Sinclair, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 16:19:20 MT on 02/27/2026 under Order No. 2114476955 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A133™ - 2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, other than those additions and deletions shown in the associated Additions and Deletions Report.

_____

(Signed)

_____

(Title)

_____

(Dated)

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AIA® Document A133® – 2019 Exhibit B

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Construction Manager, dated the third day of February in the year 2026
(In words, indicate day, month and year.)

for the following **PROJECT**:
(Name and location or address)

Hardin Visitor Information Center
920 North Mitchell Avenue
Hardin, MT 59034

THE OWNER:
(Name, legal status, and address)

City of Hardin
406 N. Cheyenne Ave.
Hardin, MT 59034
406-655-9260

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

Langlas & Associates, Inc.
2685 Gabel Road
Billings, MT 59106
406-656-0629

TABLE OF ARTICLES

B.1 GENERAL

B.2 OWNER'S INSURANCE

B.3 CONSTRUCTION MANAGER'S INSURANCE AND BONDS

B.4 SPECIAL TERMS AND CONDITIONS

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A201™–2017, General Conditions of the Contract for Construction. Article 11 of A201™–2017 contains additional insurance provisions.

ARTICLE B.1 GENERAL

The Owner and Construction Manager shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™–2017, General Conditions of the Contract for Construction.

ARTICLE B.2 OWNER'S INSURANCE

§ B.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article B.2 and, upon the Construction

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Manager's request, provide a copy of the property insurance policy or policies required by Section B.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ B.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

§ B.2.3 Required Property Insurance

§ B.2.3.1 Unless this obligation is placed on the Construction Manager pursuant to Section B.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section B.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Construction Manager, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ B.2.3.1.1 Causes of Loss. The insurance required by this Section B.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:
(Indicate below the cause of loss and any applicable sub-limit.)

Cause of Loss	Sub-Limit

§ B.2.3.1.2 Specific Required Coverages. The insurance required by this Section B.2.3.1 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's and Construction Manager's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:
(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit

§ B.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section B.2.3.1 or, if necessary, replace the insurance policy required under Section B.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ B.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section B.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ B.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section B.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Construction Manager shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ B.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure

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against direct physical loss or damage from the causes of loss identified in Section B.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ B.2.4 Optional Extended Property Insurance.
The Owner shall purchase and maintain the insurance selected and described below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[ ] **§ B.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

[ ] **§ B.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[ ] **§ B.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[ ] **§ B.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[ ] **§ B.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[ ] **§ B.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[ ] **§ B.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ B.2.5 Other Optional Insurance.
The Owner shall purchase and maintain the insurance selected below.

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(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

[ ] **§ B.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information. *(Indicate applicable limits of coverage or other conditions in the fill point below.)*

[ ] **§ B.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits

ARTICLE B.3 CONSTRUCTION MANAGER'S INSURANCE AND BONDS

§ B.3.1 General

§ B.3.1.1 Certificates of Insurance. The Construction Manager shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article B.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section B.3.2.1 and Section B.3.3.1. The certificates will show the Owner as an additional insured on the Construction Manager's Commercial General Liability and excess or umbrella liability policy or policies.

§ B.3.1.2 Deductibles and Self-Insured Retentions. The Construction Manager shall disclose to the Owner any deductible or self- insured retentions applicable to any insurance required to be provided by the Construction Manager.

§ B.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the commercial general liability coverage to include (1) the Owner, the Architect, and the Architect's consultants as additional insureds for claims caused in whole or in part by the Construction Manager's negligent acts or omissions during the Construction Manager's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04.

§ B.3.2 Construction Manager's Required Insurance Coverage

§ B.3.2.1 The Construction Manager shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Construction Manager shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Construction Manager is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ B.3.2.2 Commercial General Liability

§ B.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than one million ($ 1,000,000) each occurrence, two million ($ 2,000,000) general aggregate, and two million ($ 2,000,000) aggregate for products-completed operations hazard, providing coverage for claims including

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.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
.2 personal injury and advertising injury;
.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
.4 bodily injury or property damage arising out of completed operations; and
.5 the Construction Manager's indemnity obligations under Section 3.18 of the General Conditions.

§ B.3.2.2.2 The Construction Manager's Commercial General Liability policy under this Section B.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
.2 Claims for property damage to the Construction Manager's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
.3 Claims for bodily injury other than to employees of the insured.
.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
.8 Claims related to roofing, if the Work involves roofing.
.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
.10 Claims related to earth subsidence or movement, where the Work involves such hazards.
.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ B.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager, with policy limits of not less than one million ($ 1,000,000) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

§ B.3.2.4 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section B.3.2.2 and B.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ B.3.2.5 Workers' Compensation at statutory limits.

§ B.3.2.6 Employers' Liability with policy limits not less than one million ($ 1,000,000) each accident, one million ($ 1,000,000) each employee, and one million ($ 1,000,000) policy limit.

§ B.3.2.7 Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks

§ B.3.2.8 If the Construction Manager is required to furnish professional services as part of the Work, the Construction Manager shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than ($) per claim and ($) in the aggregate.

§ B.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Construction Manager shall procure Pollution Liability insurance, with policy limits of not less than ($) per claim and ($) in the aggregate.

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§ B.3.2.10 Coverage under Sections B.3.2.8 and B.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than ($) per claim and ($) in the aggregate.

§ B.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.

§ B.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.

§ B.3.3 Construction Manager's Other Insurance Coverage

§ B.3.3.1 Insurance selected and described in this Section B.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Construction Manager shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Construction Manager is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

§ B.3.3.2 The Construction Manager shall purchase and maintain the following types and limits of insurance in accordance with Section B.3.3.1.
(Select the types of insurance the Construction Manager is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

[ ] **§ B.3.3.2.1** Property insurance of the same type and scope satisfying the requirements identified in Section B.2.3, which, if selected in this Section B.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section B.2.3.1.3 and Section B.2.3.3. The Construction Manager shall comply with all obligations of the Owner under Section B.2.3 except to the extent provided below. The Construction Manager shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Construction Manager shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
(Where the Construction Manager's obligation to provide property insurance differs from the Owner's obligations as described under Section B.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)

[ ] **§ B.3.3.2.2 Railroad Protective Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for Work within fifty (50) feet of railroad property.

[ ] **§ B.3.3.2.3 Asbestos Abatement Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

[ ] **§ B.3.3.2.4** Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

[ ] **§ B.3.3.2.5** Property insurance on an "all-risks" completed value form, covering property owned by the Construction Manager and used on the Project, including scaffolding and other equipment.

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[ ] **§ B.3.3.2.6 Other Insurance**

(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage	Limits

§ B.3.4 Performance Bond and Payment Bond

The Construction Manager shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	In an amount equal to the Guaranteed Maximum Price
Performance Bond	In an amount equal to the Guaranteed Maximum Price

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE B.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

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Additions and Deletions Report for
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PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Construction Manager, dated the third day of February in the year 2026

...

Hardin Visitor Information Center
920 North Mitchell Avenue
Hardin, MT 59034

...

City of Hardin
406 N. Cheyenne Ave.
Hardin, MT 59034
406-655-9260

...

Langlas & Associates, Inc.
2685 Gabel Road
Billings, MT 59106
406-656-0629 –

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§ B.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than one million ($ 1,000,000) each occurrence, two million ($ 2,000,000) general aggregate, and two million ($ 2,000,000) aggregate for products-completed operations hazard, providing coverage for claims including

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§ B.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager, with policy limits of not less than one million ($ 1,000,000) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

...

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§ B.3.2.6 Employers' Liability with policy limits not less than one million ($ 1,000,000) each accident, one million ($ 1,000,000) each employee, and one million ($ 1,000,000) policy limit.

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Payment Bond	In an amount equal to the Guaranteed Maximum Price
	In an amount equal to the Guaranteed Maximum Price

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AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT :
(Name and location or address)

Hardin Visitor Information Center
920 North Mitchell Avenue
Hardin, MT 59034

THE OWNER :
(Name, legal status and address)

City of Hardin
406 N. Cheyenne Ave.
Hardin, MT 59034
406-655-9260

THE ARCHITECT:
(Name, legal status and address)

CTA Inc. DBA Cushing Terrell
13 N. 23rd Street
Billings, MT 59101
406-248-7455

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Owner or the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Contractor shall, however, be entitled to performance and enforcement of obligations under the Owner's contract with Architect intended to facilitate performance of the Contractor's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent

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consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights, and Owner shall ensure Architect's and Architect's consultants' agreement to this sentence.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work, and Owner shall ensure Architect's and Architect's agreement with this authorization. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing and shall be deemed to have been duly served if served on the party's designated representative as set forth herein (if service is during the performance of this Agreement) or (if service is after performance of this Agreement) on the party's registered agent or on the individual (if the party is an individual). Acceptable delivery methods are: (a) by registered or certified mail, (b) by courier service providing proof of delivery, or (c) by email provided that (1) the email results in both a delivery receipt and a read receipt or (2) the recipient of the email sends a written reply explicitly acknowledging receipt of the email notice.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail or by courier providing proof of delivery.

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§ 1.7 Digital Data Use and Transmission
The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form

§ 1.8 Building Information Models Use and Reliance
Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model , shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER
§ 2.1 General
§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative as identified in this Agreement. Because Owner has the contract with the Architect, and Contractor does not, Owner shall be responsible for ensuring that all responsibilities noted in this Agreement to be the responsibility of the Architect are reasonably and timely fulfilled.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request , information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements
§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum and Guaranteed Maximum Price shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

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§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

§ 2.6 Owner's Reasonable Expectations

Owner recognizes the significant challenges of labor and material markets at the time of this Project and agrees to be reasonable in its expectations, and Owner will not hold Contractor responsible for labor or material shortages which are beyond Contractor's control.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means

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the Contractor or the Contractor's authorized representative. The authorized representative for Contractor for this Project is the Project Manager.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor, unless the Architect's delay in performing its responsibilities creates a hardship to Contractor's performance, in which case fair and equitable adjustments to the Project Schedule and Contract Sum shall be made.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated its observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any reasonably apparent conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect and Owner any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may reasonably and timely require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may reasonably and timely require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Owner or Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the skill and attention required in the industry at the location of the Project. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract, though the Owner acknowledges that Owner may delegate some of the Work to Subcontractors to whom Owner has not objected. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

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§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed by Contractor to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, , transportation, and other facilities and services necessary for proper execution and completion of the Work , whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents and within the scope of Contractor's Work shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 The Owner shall secure and pay for all plan review fees, system development charges and the building permit. The Contractor and its Subcontractors shall secure and shall pay for the mechanical, electrical, plumbing, and all other trade permits required for the performance of the Work. These trade permits shall be included in the Guaranteed Maximum
Price.

§ 3.7.2 The Contractor shall comply with and give notices required by reasonably applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities reasonably applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

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§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- **.1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- **.2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- **.3** whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness. Owner recognizes that suppliers and Subcontractors are not holding their proposals or bids for any extended period of time and many expire within 48 hours, so Owner's selections may need to be made quickly.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. Contractor's Project Manager shall represent the Contractor, and communications between the Owner and Contractor must be with the Project Manager, not the superintendent. Notices to Contractor must be provided as required in the Contract Documents.

§ 3.9.2 The Contractor, as soon as practicable after award of a GMP Amendment, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

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§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the GMP Amendment, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work included in the GMP Amendment. The schedule shall contain detail appropriate for the Work included in the GMP Amendment, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the GMP Amendment and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule for the Work included in the GMP Amendment, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals, unless the failure to provide submittals in accordance with the approved submittal schedule was for a reason out of Contractor's control. Owner acknowledges the challenges in the materials and labor markets and agrees to be fair and reasonable in administering the requirements of this provision.

§ 3.10.3 The Contractor shall perform the Work included in the GMP Amendment in general accordance with the most recent schedule submitted for that Work to the Owner and Architect. The parties agree to timely execute a Change Order accepting schedule adjustments mutually agreed upon by the parties.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in

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accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect. Contractor shall be entitled to a Contract Time adjustment if Architect does not timely review and respond to submittals.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form reasonably and timely specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by reasonably applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

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§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work. This provision shall be reciprocal to Contractor, and Owner shall ensure this reciprocity with its Separate Contractors.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with reasonable access to the Work in preparation and progress wherever located, but only if it is safe to do so.

§ 3.17 Royalties, Patents and Copyrights

The Owner shall pay all royalties and license fees. If an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall promptly inform the Owner and Architect of the infringement.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner and Owner's agents and employees from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18. Additionally, to the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor and Contractor's agents and employees from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from Owner's, Owner's design team (including but not limited to Architect and Owner's engineers), and/or Owner's Separate Contractors' performance or lack of performance under this Agreement, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Owner, Owner's design team (including but not limited to Architect and Owner's engineers), any one or more of Owner's Separate Contractors, and/or an agent or employee of any of them, anyone directly or indirectly employed by any of them, or anyone for whose acts any one of them may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

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ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement. Because Contractor does not have an agreement with the Architect, and Owner does, as between Owner and Contractor, Owner shall be responsible for Architect timely fulfilling its duties and for Architect's failure to do so.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld. If Architect's authority is amended, Owner shall timely inform Contractor.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will timely review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an

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approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will timely prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will timely conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will timely interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will timely review and timely respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will timely prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of a GMP Amendment, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work involved in that GMP Amendment, including those who are to furnish materials or equipment

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fabricated to a special design. Within seven (7) days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 7-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- **.1** assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- **.2** assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

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ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised. This provision shall be reciprocal to Contractor, and Owner shall be responsible for ensuring its reciprocity with Owner's Separate Contractor(s).

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12. Owner shall be responsible for ensuring this reciprocity of obligations and rights with its Separate Contractors.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

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ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work. Owner and Contractor shall meet at least once monthly to discuss and address the terms of proposed Change Orders, Construction Change Directives and minor changes in the Work from the prior month. Owner and Contractor may discuss and agree on the terms of a proposed Change Orders, Construction Change Directives and minor changes in the Work via email, but they must memorialize such agreements in an executed Change Order within fourteen (14) days of the date of the proposed Change Orders, Construction Change Directives and minor changes in the Work, and any delay in the Contract Time or increase in the cost of the Work caused by Owner not timely executing a Change Order shall be the responsibility of the Owner, and a modification to the Contract Time and Contract Sum shall be effectuated. If fourteen (14) days have elapsed after a proposed Change Order, a Construction Change Directive or a minor change in the Work has been presented by one party to the other and no Change Order has been executed on that proposed Change Order, Construction Change Directive or minor change in the Work, Contractor has the right to suspend Work, after three (3) additional days' notice to Owner, until a Change Order has been fully executed to address the cost of the proposed Change Order, Construction Change Directive and minor change in the Work. If such suspension occurs, the Contract Time shall be increased accordingly and any increase in the cost of the Work caused by Owner not timely executing a Change Order shall be the responsibility of the Owner, and a modification to the Contract Time and Contract Sum shall be effectuated accordingly.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect or Contractor and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- **.1** The change in the Work;
- **.2** The amount of the adjustment, if any, in the Contract Sum; and
- **.3** The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being timely adjusted fairly, equitably and accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order, but subject to **§ 7.1.3, above**.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods with Contractor's fee added to it:

- **.1** Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- **.2** Unit prices stated in the Contract Documents or subsequently agreed upon;
- **.3** Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- **.4** As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing

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the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may timely and reasonably prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;

.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change;

.5 Costs of supervision and field office personnel directly attributable to the change; and

.6 Contractor's fee for Change Orders.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15 and may suspend Work in accordance with **§ 7.1.3, above**.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time. If Contractor is required to begin Work on the Change, Contractor shall proceed on a time and materials plus fee basis (until a Change Order is signed) and shall be entitled to bill and be paid monthly for such Work.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment as set forth in **§ 7.3.6, above**. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect or Contractor will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

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ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time, however, Owner is aware of the challenges in the labor and material markets at the time of this Contract and during the performance of the Work, and Owner agrees to be reasonable and fair in working with Contractor if those challenges ultimately present obstacles (outside of Contractor's control) to timely achieving Substantial Completion.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor shortages or disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes (including but not limited to a pandemic such as Covid) beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine. The Contractor shall provide prompt written notice to the Owner setting forth in detail the cause of the delay and the currently anticipated length of the delay with appropriate updates communicated timely to the Owner. If the Owner agrees to extend the Contract Time and increase the Contract Sum, the parties will execute a Change Order. If the Owner does not agree to extend the Contract Time and/or increase the Contract Sum, the Contractor may assert a Claim under Article 15 of the A201 General Conditions. Owner agrees to be reasonable, fair and equitable in addressing delays and cost increases resulting from a cause or causes beyond the Contractor's control, and Contractor agrees to use its reasonable and diligent efforts to avoid delays and cost increases.

§ 8.3.2 Claims relating to time and increases to the Cost of the Work shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

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§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay. With each Application for Payment, Contractor will provide a conditional lien waiver and release for payments due to the Contractor in that Application for Payment.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1 and pursuant to Montana's Prompt Payment Act; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1 and pursuant to Montana's Prompt Payment Act.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor

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deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner and pursuant to Montana's Prompt Payment Act, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1 and pursuant to Montana's Prompt Payment Act. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- **.1** defective Work not remedied;
- **.2** third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- **.3** failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- **.4** reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- **.5** damage to the Owner or a Separate Contractor;
- **.6** reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- **.7** repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents and pursuant to Montana's Prompt Payment Act, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

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§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has timely fulfilled its payment obligations under the Contract Documents and Montana's Prompt Payment Act, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. However, this provision only applies if Owner gives Contractor prompt notice of the claim, action, lawsuit, proceeding or lien. Immediately upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor in writing and provide Contractor with the information Owner has related to the lien. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor as required by Montana's Prompt Payment Act or within seven days after the date established in the Contract Documents, whichever is earlier, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 Substantial Completion shall be accomplished pursuant to § 11.1.14 of the A133.

§ 9.8.3

When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

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§ 9.8.4 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. At Substantial Completion and upon consent of surety if any, the Owner shall promptly make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Punch List Work has been completed and is ready for final inspection, the Architect will promptly make such inspection. When the Architect finds the Punch List Work has been completed, the Work shall be deemed to have reached Final Completion, and the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled. Contractor shall then timely submit its final Application for Payment.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect and Owner the final Application for Payment with Contractor's conditional lien releases and waivers. Upon Owner's payment to Contractor on the final Application for Payment, Contractor will promptly provide Owner with the unconditional lien releases and waivers associated with that payment.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment.

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§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. Owner recognizes that Contractor may delegate Work to Subcontractors. As between Owner and Contractor, however, Contractor shall remain responsible for safety on the Project, but Owner is not requiring Contractor to control Subcontractors means and methods. Additionally, Owner recognizes that, between Owner and Contractor, Owner is responsible for the safety obligations of its own forces and Separate Contractors.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

.1 employees on the Work and other persons who may be affected thereby;

.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and

.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by reasonably applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is not attributable to acts or omissions of Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable. If the damage and/or loss was caused in whole or in part by the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, Contractor shall be promptly reimbursed by Owner on a time and materials basis for the cost of such remedial Work, plus Contractor's fee. **The foregoing obligations of the Contractor and Owner are in addition to their respective obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

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§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs related to the shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

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ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required and if required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. Owner shall purchase and maintain liability insurance for the Project. If requested by Contractor, Owner shall provide to Contractor copies of all relevant policies. Owner shall timely purchase (prior to the commencement of Construction) and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis subject to self-insurance retention and deductibles. Owner shall be responsible for deductible amounts related to claims made. Owner's property insurance coverage shall be no less than the amount of the initial Guaranteed Maximum Price, plus the value of subsequent amendment modifications. Such property insurance shall be maintained until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property to be covered, whichever is later. This insurance shall include the interests of Owner, Contractor, the Subcontractors, and Sub-subcontractors on the Project as insureds. Owner shall be responsible for all property losses to the Work not paid by the insurance outlined herein due to a self-insurance retention and/or a deductible.

§ 11.2.2 Failure to Purchase Required Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

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§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within one (1) business day of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, Subcontractors, and Sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner. Within ten (10) days of Contractor's request to Owner, Owner shall make a claim with the appropriate insurer in Owner's role as fiduciary for the insureds.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have twenty-one (21) days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount

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allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including reasonably necessary additional testing and inspections, the cost of uncovering and replacement, and reasonable compensation for the Architect's services and expenses made necessary thereby (if any), shall be at the Contractor's expense. The cost of any remedy or portion thereof that is necessitated by the actions or inactions of someone other than the Contractor, its Subcontractor, or anyone directly employed by either of them, shall be added to the Contract Sum by way of Change Order, and the Contract Time shall be adjusted by Change Order.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work , provided the value of any such Work first performed after Substantial Completion exceeds $5,000.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

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§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be affected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4 with extended discovery allowed as agreed upon by the arbitrator(s).

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, with prior written consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. Contractor shall not unreasonably withhold consent if lender will not change the terms of this Agreement. If Contractor approves of the assignment in writing, the Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by reasonably applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

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§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all reasonable costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's reasonable and necessary services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;

.3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents;

.4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2;

.5 The Owner or an agent (e.g. Architect) or employee of the Owner has failed to fulfill Owner's obligations under the Contract Documents with respect to matters critical to the progress of the Work; or

.6 The Owner has failed to operate in good faith and fairly and reasonably with Contractor.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner, Owner's own forces, and/or Owner's Separate Contractor(s) as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or ninety (90) days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, plus Contractor's fee, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination (including costs for terminating subcontracts and materials/supplies agreements, demobilization costs, costs necessary to protect Work completed to date), plus Contractor's fee.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

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§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;

.3 repeatedly disregards reasonably applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

.1 Exclude the Contractor from the site;

.2 Accept assignment of subcontracts pursuant to Section 5.4; and

.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including reasonable and necessary compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner after Owner's provision of documentation substantiating the cost and difference. Contractor may dispute Owner's termination and the alleged costs. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit and Contractor's fee. No adjustment shall be made to the extent

.1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or

.2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

.1 cease operations as directed by the Owner in the notice;

.2 take actions reasonable and necessary, or that the Owner may direct, for the protection and preservation of the Work; and

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts and other costs and fees set forth in §14.1.3.

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ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Contractor shall have the right to stop work for any unresolved Claim greater than or equal to $100,000 in value, until such time as final resolution is achieved.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

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.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

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§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by an experienced mediator licensed to practice law in the state of Montana and who has significant experience in Montana in mediation, construction law, and contract law. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. However, litigation related to prosecuting a construction lien may not be stayed. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision. If the parties fail to reach an agreement in mediation, and as an alternative to seeking binding dispute resolution, either party may pursue remedies by litigation in a court of competent jurisdiction.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement and shall allow for expanded discovery, including depositions, as the arbitrator(s) recommend. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

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§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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PAGE 1

for the following ~~PROJECT:~~PROJECT :

...

Hardin Visitor Information Center
920 North Mitchell Avenue
Hardin, MT 59034

...

THE ~~OWNER:~~OWNER :

...

City of Hardin
406 N. Cheyenne Ave.
Hardin, MT 59034
406-655-9260 –

...

CTA Inc. DBA Cushing Terrell
13 N. 23rd Street
Billings, MT 59101
406-248-7455 –

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ARTICLE 1 GENERAL PROVISIONS

...

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Owner or the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders,

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sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

...

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The ~~Architect~~ Contractor shall, however, be entitled to performance and enforcement of obligations under the ~~Contract~~ Owner's contract with Architect intended to facilitate performance of the ~~Architect's~~ Contractor's duties.

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§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved ~~rights.~~rights, and Owner shall ensure Architect's and Architect's consultants' agreement to this sentence.

...

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the ~~Work.~~ Work, and Owner shall ensure Architect's and Architect's agreement with this authorization. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

...

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing ~~to the designated representative of the party to whom the notice is addressed~~ and shall be deemed to have been duly served if ~~delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.~~served on the party's designated representative as set forth herein (if service is during the performance of this Agreement) or (if service is after performance of this Agreement) on the party's registered agent or on the individual (if the party is an individual). Acceptable delivery methods are: (a) by registered or certified mail, (b) by courier service providing proof of delivery, or (c) by email provided that (1) the email results in both a delivery receipt and a read receipt or (2) the recipient of the email sends a written reply explicitly acknowledging receipt of the email notice.

...

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered ~~mail,~~ mail or by courier providing proof of delivery.

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§ 1.7 Digital Data Use and Transmission

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...

The parties shall agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ of Instruments of Service or any other information or documentation in digital ~~form.~~form

...

§ 1.8 Building Information Models Use and Reliance

...

Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ protocols governing the use of, and reliance on, the information contained in the model , shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

...

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized ~~representative.~~representative as identified in this Agreement. Because Owner has the contract with the Architect, and Contractor does not, Owner shall be responsible for ensuring that all responsibilities noted in this Agreement to be the responsibility of the Architect are reasonably and timely fulfilled.

...

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written ~~request,~~ request , information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

...

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum and Guaranteed Maximum Price shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

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If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's

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additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

...

§ 2.6 Owner's Reasonable Expectations

...

Owner recognizes the significant challenges of labor and material markets at the time of this Project and agrees to be reasonable in its expectations, and Owner will not hold Contractor responsible for labor or material shortages which are beyond Contractor's control.

PAGE 14

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative. The authorized representative for Contractor for this Project is the Project Manager.

...

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the ~~Contractor.~~Contractor, unless the Architect's delay in performing its responsibilities creates a hardship to Contractor's performance, in which case fair and equitable adjustments to the Project Schedule and Contract Sum shall be made.

...

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated ~~personal~~ its observations with requirements of the Contract Documents.

...

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any reasonably apparent conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect and Owner any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may reasonably and timely require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

...

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may reasonably and timely require.

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§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Owner or Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

...

§ 3.3.1 The Contractor shall supervise and direct the Work, using the ~~Contractor's best skill and attention.~~ skill and attention required in the industry at the location of the Project. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the ~~Contract.~~ Contract, though the Owner acknowledges that Owner may delegate some of the Work to Subcontractors to whom Owner has not objected. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

PAGE 15

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed by Contractor to determine that such portions are in proper condition to receive subsequent Work.

...

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, ~~water, heat, utilities,~~ , transportation, and other facilities and services necessary for proper execution and completion of the ~~Work,~~ Work , whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

...

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents and within the scope of Contractor's Work shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

...

§ 3.7.1 ~~Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at thetime bids are received or negotiations concluded.~~The Owner shall secure and pay for all plan review fees, system development charges and the building permit. The Contractor and its Subcontractors shall secure and shall pay for the mechanical, electrical, plumbing, and all other trade permits required for the performance of the Work. These trade permits shall be included in the

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...

Guaranteed Maximum

...

Price.

...

§ 3.7.2 The Contractor shall comply with and give notices required by reasonably applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities reasonably applicable to performance of the Work.

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§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness. Owner recognizes that suppliers and Subcontractors are not holding their proposals or bids for any extended period of time and many expire within 48 hours, so Owner's selections may need to be made quickly.

...

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. ~~The superintendent~~ Contractor's Project Manager shall represent the Contractor, and communications ~~given to the superintendent shall be as binding as if given to the Contractor.~~between the Owner and Contractor must be with the Project Manager, not the superintendent. Notices to Contractor must be provided as required in the Contract Documents.

...

§ 3.9.2 The Contractor, as soon as practicable after award of ~~the Contract,~~ a GMP Amendment, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

PAGE 17

§ 3.10.1 The Contractor, promptly after being awarded the ~~Contract,~~ GMP Amendment, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the ~~Work.~~ Work included in the GMP Amendment. The schedule shall contain detail appropriate for the ~~Project,~~ Work included in the GMP Amendment, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

...

§ 3.10.2 The Contractor, promptly after being awarded the ~~Contract~~ GMP Amendment and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction ~~schedule,~~ schedule for the Work included in the GMP Amendment, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of ~~submittals.~~submittals, unless the failure to provide submittals in accordance with the approved submittal schedule

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was for a reason out of Contractor's control. Owner acknowledges the challenges in the materials and labor markets and agrees to be fair and reasonable in administering the requirements of this provision.

...

§ 3.10.3 The Contractor shall perform the Work included in the GMP Amendment in general accordance with the most recent ~~schedules submitted to the Owner and Architect.~~ schedule submitted for that Work to the Owner and Architect. The parties agree to timely execute a Change Order accepting schedule adjustments mutually agreed upon by the parties.

PAGE 18

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect. Contractor shall be entitled to a Contract Time adjustment if Architect does not timely review and respond to submittals.

...

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form reasonably and timely specified by the Architect.

...

The Contractor shall confine operations at the site to areas permitted by reasonably applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

PAGE 19

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work. This provision shall be reciprocal to Contractor, and Owner shall ensure this reciprocity with its Separate Contractors.

...

The Contractor shall provide the Owner and Architect with reasonable access to the Work in preparation and progress wherever ~~located.~~located, but only if it is safe to do so.

...

The ~~Contractor~~ Owner shall pay all royalties and license fees. ~~The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if~~ If an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall ~~be responsible for the loss unless the information is promptly furnished to the Architect.~~promptly inform the Owner and Architect of the infringement.

...

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§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the ~~Owner, Architect, Architect's consultants, and agents and employees of any of them~~ Owner and Owner's agents and employees from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be ~~liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder.~~ liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18. Additionally, to the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor and Contractor's agents and employees from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from Owner's, Owner's design team (including but not limited to Architect and Owner's engineers), and/or Owner's Separate Contractors' performance or lack of performance under this Agreement, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Owner, Owner's design team (including but not limited to Architect and Owner's engineers), any one or more of Owner's Separate Contractors, and/or an agent or employee of any of them, anyone directly or indirectly employed by any of them, or anyone for whose acts any one of them may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist.

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ARTICLE 4 ARCHITECT

...

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement. Because Contractor does not have an agreement with the Architect, and Owner does, as between Owner and Contractor, Owner shall be responsible for Architect timely fulfilling its duties and for Architect's failure to do so.

...

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld. If Architect's authority is amended, Owner shall timely inform Contractor.

PAGE 21

§ 4.2.7 The Architect will timely review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

...

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§ 4.2.8 The Architect will timely prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

...

§ 4.2.9 The Architect will timely conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

...

§ 4.2.11 The Architect will timely interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

...

§ 4.2.14 The Architect will timely review and timely respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will timely prepare and issue supplemental Drawings and Specifications in response to the requests for information.

PAGE 22

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of ~~the Contract,~~ a GMP Amendment, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the ~~Work,~~ Work involved in that GMP Amendment, including those who are to furnish materials or equipment fabricated to a special design. Within ~~14~~ seven (7) days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the ~~14-day~~ 7-day period shall constitute notice of no reasonable objection.

PAGE 23

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised. This provision shall be reciprocal to Contractor, and Owner shall be responsible for ensuring its reciprocity with Owner's Separate Contractor(s).

...

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12. Owner shall be responsible for ensuring this reciprocity of obligations and rights with its Separate Contractors.

PAGE 24

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order,

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Construction Change Directive, or order for a minor change in the Work. Owner and Contractor shall meet at least once monthly to discuss and address the terms of proposed Change Orders, Construction Change Directives and minor changes in the Work from the prior month. Owner and Contractor may discuss and agree on the terms of a proposed Change Orders, Construction Change Directives and minor changes in the Work via email, but they must memorialize such agreements in an executed Change Order within fourteen (14) days of the date of the proposed Change Orders, Construction Change Directives and minor changes in the Work, and any delay in the Contract Time or increase in the cost of the Work caused by Owner not timely executing a Change Order shall be the responsibility of the Owner, and a modification to the Contract Time and Contract Sum shall be effectuated. If fourteen (14) days have elapsed after a proposed Change Order, a Construction Change Directive or a minor change in the Work has been presented by one party to the other and no Change Order has been executed on that proposed Change Order, Construction Change Directive or minor change in the Work, Contractor has the right to suspend Work, after three (3) additional days' notice to Owner, until a Change Order has been fully executed to address the cost of the proposed Change Order, Construction Change Directive and minor change in the Work. If such suspension occurs, the Contract Time shall be increased accordingly and any increase in the cost of the Work caused by Owner not timely executing a Change Order shall be the responsibility of the Owner, and a modification to the Contract Time and Contract Sum shall be effectuated accordingly.

...

§ 7.2.1 A Change Order is a written instrument prepared by the Architect or Contractor and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

...

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being timely adjusted fairly, equitably and accordingly.

...

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change ~~Order.~~Order, but subject to **§ 7.1.3, above**.

...

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following ~~methods:~~methods with Contractor's fee added to it:

PAGE 25

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may timely and reasonably prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

...

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change;~~and~~

...

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.5 Costs of supervision and field office personnel directly attributable to the ~~change.~~change; and

...

.6 Contractor's fee for Change Orders.

...

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article ~~15.~~15 and may suspend Work in accordance with **§ 7.1.3, above**.

...

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time. If Contractor is required to begin Work on the Change, Contractor shall proceed on a time and materials plus fee basis (until a Change Order is signed) and shall be entitled to bill and be paid monthly for such Work.

...

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for ~~Payment.~~ Payment as set forth in **§ 7.3.6, above**. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

...

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect or Contractor will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

PAGE 26

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

...

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract ~~Time.~~Time, however, Owner is aware of the challenges in the labor and material markets at the time of this Contract and during the performance of the Work, and Owner agrees to be reasonable and fair in working with Contractor if those challenges ultimately present obstacles (outside of Contractor's control) to timely achieving Substantial Completion.

...

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor shortages or disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes (including but not limited to a pandemic such as Covid) beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify

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delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine. The Contractor shall provide prompt written notice to the Owner setting forth in detail the cause of the delay and the currently anticipated length of the delay with appropriate updates communicated timely to the Owner. If the Owner agrees to extend the Contract Time and increase the Contract Sum, the parties will execute a Change Order. If the Owner does not agree to extend the Contract Time and/or increase the Contract Sum, the Contractor may assert a Claim under Article 15 of the A201 General Conditions. Owner agrees to be reasonable, fair and equitable in addressing delays and cost increases resulting from a cause or causes beyond the Contractor's control, and Contractor agrees to use its reasonable and diligent efforts to avoid delays and cost increases.

...

§ 8.3.2 Claims relating to time and increases to the Cost of the Work shall be made in accordance with applicable provisions of Article 15.

PAGE 27

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay. With each Application for Payment, Contractor will provide a conditional lien waiver and release for payments due to the Contractor in that Application for Payment.

...

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section ~~9.5.1;~~ 9.5.1 and pursuant to Montana's Prompt Payment Act; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section ~~9.5.1.~~9.5.1 and pursuant to Montana's Prompt Payment Act.

PAGE 28

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the ~~Owner,~~ Owner and pursuant to Montana's Prompt Payment Act, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section ~~9.4.1.~~ 9.4.1 and pursuant to Montana's Prompt Payment Act. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

...

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract ~~Documents,~~ Documents and pursuant to Montana's Prompt Payment Act, and shall so notify the Architect.

PAGE 29

§ 9.6.8 Provided the Owner has timely fulfilled its payment obligations under the Contract ~~Documents,~~ Documents and Montana's Prompt Payment Act, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. ~~Upon~~ However, this provision only applies if Owner gives Contractor prompt notice of the claim, action, lawsuit, proceeding or lien. Immediately upon receipt of

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notice of a lien claim or other claim for payment, the Owner shall notify the ~~Contractor.~~ Contractor in writing and provide Contractor with the information Owner has related to the lien. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

...

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor as required by Montana's Prompt Payment Act or within seven days after the date established in the Contract Documents, whichever is earlier, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

...

§ 9.8.2 ~~When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.~~Substantial Completion shall be accomplished pursuant to § 11.1.14 of the A133.

...

§ 9.8.3 ~~Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.~~

...

~~§ 9.8.4~~ When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

PAGE 30

§ ~~9.8.5~~ 9.8.4 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. ~~Upon such acceptance, and~~ At Substantial Completion and upon consent of surety if any, the Owner shall promptly make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

...

§ 9.10.1 Upon receipt of the Contractor's notice that the ~~Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment,~~ Punch List Work has been completed and is ready for final inspection, the Architect will promptly make such inspection. When the Architect finds the ~~Work acceptable under the Contract Documents and the Contract fully performed,~~ Punch List Work has been completed, the Work shall be

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deemed to have reached Final Completion, and the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled. Contractor shall then timely submit its final Application for Payment.

...

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect ~~(1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.~~and Owner the final Application for Payment with Contractor's conditional lien releases and waivers. Upon Owner's payment to Contractor on the final Application for Payment, Contractor will promptly provide Owner with the unconditional lien releases and waivers associated with that payment.

PAGE 31

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. Owner recognizes that Contractor may delegate Work to Subcontractors. As between Owner and Contractor, however, Contractor shall remain responsible for safety on the Project, but Owner is not requiring Contractor to control Subcontractors means and methods. Additionally, Owner recognizes that, between Owner and Contractor, Owner is responsible for the safety obligations of its own forces and Separate Contractors.

...

§ 10.2.2 The Contractor shall comply with, and give notices required by reasonably applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

...

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is not attributable to acts or omissions of Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable. If the damage and/or loss was caused in whole or in part by the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, ~~and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's~~ Contractor shall be promptly reimbursed by Owner on a time and materials basis for the cost of such

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remedial Work, plus Contractor's fee. **The foregoing obligations of the Contractor and Owner are in addition to their respective obligations under Section 3.18.

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§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs ~~of~~ related to the shutdown, delay, and start-up.

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ARTICLE 11 INSURANCE AND BONDS

...

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required and if required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

...

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. Owner shall purchase and maintain liability insurance for the Project. If requested by Contractor, Owner shall provide to Contractor copies of all relevant policies. Owner shall timely purchase (prior to the commencement of Construction) and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis subject to self-insurance retention and deductibles. Owner shall be responsible for deductible amounts related to claims made. Owner's property insurance coverage shall be no less than the amount of the initial Guaranteed Maximum Price, plus the value of subsequent amendment modifications. Such property insurance shall be maintained until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property to be covered, whichever is later. This insurance shall include the interests of Owner, Contractor, the Subcontractors, and Sub-subcontractors on the Project as insureds. Owner shall be responsible for all property losses to the Work not paid by the insurance outlined herein due to a self-insurance retention and/or a deductible.

...

§ 11.2.2 Failure to Purchase Required ~~Property~~ Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the

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failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

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§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within ~~three (3) business days~~ one (1) business day of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

...

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, ~~subcontractors, and sub-subcontractors.~~ Subcontractors, and Sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

...

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner. Within ten (10) days of Contractor's request to Owner, Owner shall make a claim with the appropriate insurer in Owner's role as fiduciary for the insureds.

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§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have ~~14~~ twenty-one (21) days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or

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destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

...

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including reasonably necessary additional testing and inspections, the cost of uncovering and replacement, and reasonable compensation for the Architect's services and expenses made necessary ~~thereby,~~ thereby (if any), shall be at the Contractor's expense. The cost of any remedy or portion thereof that is necessitated by the actions or inactions of someone other than the Contractor, its Subcontractor, or anyone directly employed by either of them, shall be added to the Contract Sum by way of Change Order, and the Contract Time shall be adjusted by Change Order.

...

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the ~~Work.~~Work , provided the value of any such Work first performed after Substantial Completion exceeds $5,000.

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If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be ~~effected~~ affected whether or not final payment has been made.

...

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section ~~15.4.~~15.4 with extended discovery allowed as agreed upon by the arbitrator(s).

...

§ 13.2.2 The Owner may, ~~without~~ with prior written consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. ~~The~~ Contractor shall not unreasonably withhold consent if lender will not change the terms of this Agreement. If Contractor approves of the assignment in writing, the Contractor shall execute all consents reasonably required to facilitate the assignment.

...

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by reasonably applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

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§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all reasonable costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's reasonable and necessary services and expenses, shall be at the Contractor's expense.

...

.3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents;~~or~~

...

.4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section ~~2.2.~~2.2;

...

.5 The Owner or an agent (e.g. Architect) or employee of the Owner has failed to fulfill Owner's obligations under the Contract Documents with respect to matters critical to the progress of the Work; or

...

.6 The Owner has failed to operate in good faith and fairly and reasonably with Contractor.

...

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the ~~Owner~~ Owner, Owner's own forces, and/or Owner's Separate Contractor(s) as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or ~~120~~ ninety (90) days in any 365-day period, whichever is less.

...

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, plus Contractor's fee, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such ~~termination.~~termination (including costs for terminating subcontracts and materials/supplies agreements, demobilization costs, costs necessary to protect Work completed to date), plus Contractor's fee.

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.3 repeatedly disregards reasonably applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

...

.1 Exclude the Contractor from the ~~site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;~~site;

...

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including reasonable and necessary compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and

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damages exceed the unpaid balance, the Contractor shall pay the difference to the ~~Owner.~~ Owner after Owner's provision of documentation substantiating the cost and difference. Contractor may dispute Owner's termination and the alleged costs. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

...

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include ~~profit.~~ profit and Contractor's fee. No adjustment shall be made to the extent

...

.2 take actions reasonable and necessary, or that the Owner may direct, for the protection and preservation of the Work; and

...

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of ~~Subcontracts; and the termination fee, if any, set forth in the Agreement.~~Subcontracts and other costs and fees set forth in §14.1.3.

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§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

...

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Contractor shall have the right to stop work for any unresolved Claim greater than or equal to $100,000 in value, until such time as final resolution is achieved.

...

If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

...

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

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§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by ~~the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement.~~ an experienced mediator licensed to practice

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law in the state of Montana and who has significant experience in Montana in mediation, construction law, and contract law. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. However, litigation related to prosecuting a construction lien may not be stayed. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

...

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision. If the parties fail to reach an agreement in mediation, and as an alternative to seeking binding dispute resolution, either party may pursue remedies by litigation in a court of competent jurisdiction.

...

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the ~~Agreement.~~ Agreement and shall allow for expanded discovery, including depositions, as the arbitrator(s) recommend. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

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_____

(Signed)

_____

(Title)

_____

(Dated)

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Exhibit #1

MAYOR
Joe Purcell

PUBLIC WORKS DIRECTOR
Michael Hurff Jr.

POLICE CHIEF
Paul M. George Jr.

FINANCE OFFICER/CITY CLERK
Andrew Lehr

Request for Qualifications

The City of Hardin has been awarded a Pilot Community Tourism Grant through the Montana Department of Commerce to support the construction of a Visitor Information Center in Hardin, Montana.

The City of Hardin is seeking qualified construction firms to provide General Contractor/Construction Manager (GC/CM) services for Phase 1 of the Visitor Information Center project in Hardin, Montana. The selected firm will work collaboratively with the Owner to deliver both Pre-Construction Services and Construction Services for the Project.

Copies of the detailed request for qualifications (RFQ), including a description of the services to be provided by respondents, the minimum content of responses, and the factors to be used to evaluate the responses can be obtained by contacting Alexandria Edwards, Project Manager, 406 North Cheyenne Avenue, Hardin, Montana 59034, phone 406-665-9260, or by email aedwards@hardinmt.com, reference in the subject line: Visitor Information Center. The RFQ can also be found on the City of Hardin website, hardinmt.com, under the public notices page.

All responses to the detailed RFQ must be sealed, include five paper copies and one thumb drive with an electronic copy of the RFQ of the proposal, include Attachment A, and be marked on the outside of the envelope "Visitor Information Center", and must be submitted by December 23, 2025, by 3:00 p.m. to Andrew Lehr, Finance Officer/ City Clerk, 406 North Cheyenne Avenue, Hardin, MT 59034.

All Proposals will be evaluated by the Steering Committee, finalists will be contacted January 2nd for interviews to take place January 5th through January 9th. Mandatory Pre-Submission Meeting will be held virtually, December 17th at 10:00 a.m.

Dated this 10th Day of December 2025

Andrew Lehr, Finance Officer/City Clerk

Publish: December 10 and December 17

Exhibit #1

REQUEST FOR QUALIFICATIONS

GENERAL CONTRACTOR / CONSTRUCTION MANAGER SERVICES

Preconstruction and Construction Phase Services

Visitor Information Center – New Construction

Hardin, Montana

RFQ Submittal Deadline: December 23, 2025 3:00 PM

City of Hardin

406 N Cheyenne Ave, Hardin, MT 59034

December 10, 2025

Exhibit #1

TO: Prospective GC/CM Candidates

FROM: City of Hardin

SUBJECT: General Contractor / Construction Manager services for a Visitor Information Center in Hardin, Montana.

PROJECT LOCATION: Approximately - 920 N Mitchell Ave, Hardin, Montana

DATE OF ISSUE: December 10, 2025

All responses must be submitted in the required format, enclosed in a sealed envelope clearly labeled with the RFQ title, company name, and due date, and provided in both hard copy and electronic copy.

Responses to this Request for Qualifications for GC/CM services will be received at the City of Hardin City Hall's office no later than **3:00 PM MST on Tuesday, December 23, 2025. It is the sole responsibility of the proposing firm to ensure that submissions are received prior to the closing time as late submittals will not be accepted and will be returned unopened.**

The physical address is:
City Hall, 406 N Cheyenne, Ave, Hardin, Montana

For additional information on this RFQ, contact Alexandria Edwards, Project Manager, 406-665-9260, aedwards@hardinmt.com

DATED at Hardin, Montana, this 10th day of December, 2025

Andrew Lehr
City Finance Officer/City Clerk

For publication on:
Wednesday, December 10, 2025
Wednesday, December 17, 2025

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X. Selection of GC / CM
XI. Information For GC / CM Firms
   A. Attachment A – Proposer Information
   B. Attachment B – Conceptual Design Package

Correspondence concerning this RFQ is to be sent to the following individuals:

Andrew Lehr
Finance Officer/ City Clerk
City of Hardin
406 N. Cheyenne Ave.
Hardin, MT 59034
406-665-9260 Ext. 102
cityfinance@hardinmt.com

Alexandria Edwards
Project Manager
City of Hardin
406 N. Cheyenne Ave.
Hardin, MT 59034
406-665-9260
aedwards@hardinmt.com

I. INTRODUCTION:

The City of Hardin ("Owner") is seeking qualified construction firms to provide General Contractor/Construction Manager ("GC/CM") services for Phase 1 of the Visitor Information Center project in Hardin, Montana. The selected firm will work collaboratively with the Owner to deliver both Pre-Construction Services and Construction Services for the Project.

The Owner intends to enter into a GC/CM Contract for Pre-Construction Services for the Project. This GC/CM contract will include a maximum Pre-Construction Services Fee, GC/CM Fee percentage and Fixed Costs for General Conditions Work. This GC/CM contract has provisions for adding Construction Services through acceptance of a Guaranteed Maximum Price ("GMP") by contract amendment. The amendment would include construction services through completion of the Project. Alternatively, Owner may, at its sole discretion, choose not to continue with any GC/CM contract beyond the completion of Pre-Construction activities and solicit bids from qualified contractors for the construction of the Project. The Owner will use the RFQ process to evaluate each of the Proposers' qualifications. Final selection will be determined from the deliverables submitted in response to the RFQ document, interviews and any other information sought by the Owner to assess a firm's ability to complete the Project as required

This RFQ shall not commit the Owner to enter into any agreement, to pay any expenses incurred in preparation of any response to this request, or to procure or contract for any supplies, goods, or services. The Owner reserves the right to accept or reject any and all responses received as a result of this RFQ if it is in the Owner's best interest to do so. This Procurement is governed by the laws of the State of Montana and venue for all legal proceedings shall be the City of Hardin, Big Horn County. By offering to perform services under this Procurement, all Proposers agree to be bound by the laws of the State of Montana, and including, but not limited to, applicable wage rates, payments, gross receipts taxes, building codes, equal opportunity employment practices, safety, etc.

II. PROJECT BACKGROUND AND DESCRIPTION

The construction of the Visitor Information Center is a component of the Big Horn Tourism Breakthrough Project, funded by the Pilot Community Tourism Grant Program through the Montana Department of Commerce, which was awarded to the City of Hardin for tourism development in Hardin and greater Big Horn County in February 2025.

The new Visitor Information Center will serve as a welcoming hub for both visitors and community members, celebrating the unique culture, history, and opportunities of Big Horn County. The Visitor Information Center is intended to be built on a city-owned vacant parcel known as "the triangle," located within Hardin city limits at approximately 920 N Mitchell Ave, Hardin, Montana 59034. Phase 1 of the Visitor Information Center will include a mechanical

room, electrical room, main lobby, restrooms, exhibit gallery, janitor closet, storage room, and a vestibule.

It is the intent of the Owner that design and preconstruction services for the Project will run in parallel to one another, with construction to follow the completion of design. This will allow decisions made on each Project to inform one another maintaining equity/parity between Projects. Clear and constant communication amongst the entire team is essential for the overall success of the Project.

For architectural services, the Owner has selected:

CTA Inc. DBA Cushing Terrell
13 N 23rd Street,
Billings, MT 59101
(406) 248-7455
Principal-in-Charge, Shannon Christensen

III. SCOPE PRECONSTRUCTION SERVICES

Preconstruction services will be provided on a cost reimbursement basis up to a stated maximum. The specific scope of preconstruction services will be negotiated prior to signing the GC/CM contract. In general, preconstruction services are anticipated to include the following: Consult with, advise, assist, and provide recommendations on all aspects of the planning and design of the work. Additionally, the scope of preconstruction services will follow the provisions outlined in the AIA A133 Contract, which can be made available upon request.

1. Project Partnership & Collaboration
   - Act as a collaborative partner to the City of Hardin and the Design Team throughout all preconstruction phases.
   - Participate in all coordination meetings, building committee meetings, and project work sessions.
   - Actively engage with project stakeholders to ensure the Visitor Information Center goals are met related to tourism support, public-facing spaces, long-term durability, community identity, and visitor experience.

2. Design Review & Constructability
   - Review all in-progress and completed design documents at each design phase (applicable design development, construction documents).
   - Provide constructability reviews identifying feasibility concerns, alternative materials, potential conflicts, and opportunities to streamline construction.
   - Recommend adjustments to improve clarity, completeness, and compatibility with current construction practices.
   - Conduct investigations of existing site conditions and identify site-specific challenges that may influence design decisions (utilities, access, parking, visitor circulation, weather-related constraints).

- Advise the Design Team on design decisions that impact quality, schedule, cost, and sustainability.

3. Phasing, Scheduling & Coordination
   - Develop and maintain a detailed preliminary critical-path project schedule covering design milestones, permitting, bidding, procurement, early work packages, and construction.
   - Provide recommendations that optimize construction sequencing and minimize disruption to downtown visitor activity.
   - Provide staging plans, logistics plans, and diagrams illustrating impacts to site access, parking, and construction laydown needs.
   - Identify long-lead materials and equipment, evaluate schedule risks, and propose mitigation strategies.
   - Prepare and update construction impact communications for City staff and project stakeholders.

4. Cost Estimating & Budget Management
   - Prepare detailed construction cost estimates at each designated design phase and reconcile with the City's budget.
   - Continuously monitor market conditions, subcontractor availability, inflation, and material volatility and report impact to the Owner.
   - Immediately notify the City of Hardin if projected costs approach or exceed the approved construction budget.
   - Provide value-engineering and cost-optimization recommendations while preserving project quality, visitor experience, and long-term durability.
   - Provide comparison estimates aligned with the Design Team's cost opinions.
   - Furnish a final preconstruction cost estimate for Owner approval.

5. Procurement Strategy & Market Engagement
   - Provide insight on current construction market bidding climate and subcontractor capacity relevant to Hardin and surrounding region.
   - Identify opportunities to divide bid packages to improve competition, address market availability, and accelerate construction.
   - Develop comprehensive subcontractor and supplier bid packages in coordination with the Design Team.
   - Conduct all advertising, solicitation, and receipt of subcontractor and supplier bids.
   - Manage opening, review, and tallying of bids and present results to the City.
   - Ensure self-performed work is competitively bid against at least two qualified subcontractors.
   - Actively source qualified labor, trades, and specialty contractors suited for a public-facing civic building.

6. Early Work, Procurement & Risk Mitigation
   - Recommend early work packages (e.g., site preparation, utility relocation, long-lead materials, foundations) when appropriate to maintain schedule.
   - Provide strategies for mitigating procurement delays, especially for materials impacting the Visitor Information Center's public amenities or outdoor signage integration.
   - Perform early procurement and advance construction activities upon approval from the City.

7. Sustainability, Durability & High-Performance Design
   - Provide recommendations that improve building sustainability, operational efficiency, and long-term resilience, consistent with City of Hardin goals for a public Visitor Information Center.
   - Evaluate materials and systems for energy efficiency, durability in Hardin's climate, and reduced lifecycle costs.
   - Support integration of sustainable practices and, where applicable, identify potential sustainable certification pathways (LEED, high-performance building standards, etc.).
   - Bring in specialty trades as needed to support high-performance building planning.

8. Guaranteed Maximum Price (GMP) Development
   - Prepare a detailed, transparent Guaranteed Maximum Price in accordance with the contract requirements.
   - Provide a clear breakdown of scope, inclusions, exclusions, contingencies, allowances, and assumptions.
   - Identify scope gaps early to minimize allowances within the GMP.
   - Acceptance of the GMP Amendment will complete the preconstruction phase and initiate the construction phase.
   - Upon GMP acceptance, provide 100% Performance Bond and 100% Payment Bond.
   - If the GC/CM cannot furnish an acceptable GMP, the City reserves the right to terminate and negotiate with the next highest-ranked respondent.

IV. SCOPE CONSTRUCTION SERVICES

Once the Guaranteed Maximum Price (GMP) is accepted by the City of Hardin, the GC/CM will enter into the Construction Phase and assume full responsibility for delivering the Visitor Information Center project in accordance with all Contract Documents. Additionally, the scope of preconstruction services will follow the provisions outlined in the AIA A133 and AIA A201 Contract, which can be made available upon request.

1. Guaranteed Maximum Price (GMP) Requirements
   - The GMP may be requested at the City's sole discretion:
     - During the Construction Documents phase prior to bidding a majority of trade packages;
     - After the Construction Documents are completed and before bidding; or
     - After most or all trade packages have been bid or bought out.
     - The established GMP—inclusive of all Early Work Amendments (EWAs)—will constitute the maximum amount the City will pay for construction of the Project, unless the City approves scope changes.
     - Acceptance of the GMP by contract amendment marks the completion of preconstruction services and the official start of the Construction Phase.

2. Bonding Requirements
   - At the time of executing the GMP Agreement/Amendment, the GC/CM must provide:
     - 100% Performance Bond, and
     - 100% Payment (Labor & Materials) Bond For the full GMP value.
   - If the GC/CM is unable to provide an acceptable GMP or required bonding, the City reserves the right to:
     - Cancel or decline to commence Construction Phase services;
     - Begin a new procurement process;
     - Negotiate with the next highest-ranked respondent; or
     - Issue the project under a standard lowest-responsible-bidder method.

3. Labor Compliance
   - The GC/CM must comply with all State of Montana Prevailing Wage Rates in effect at the time of signing the GMP Agreement or any EWA.
   - All wage reporting, documentation, payroll verification, and compliance activities must follow Montana Code Annotated (MCA) and all applicable state requirements.
   - The GC/CM must ensure all subcontractors and lower-tier contractors also comply with state wage laws.

4. General Construction Phase Responsibilities
   - The detailed construction phase scope will be finalized in the negotiated contract. In general, Construction Phase services include:

   4.1 Project Oversight & Management

- Full responsibility for managing, supervising, and coordinating all construction activities.
- Execution of the work in accordance with all drawings, specifications, General and Supplemental Conditions, and approved modifications.

4.2 Schedule Compliance

- Maintain, monitor, and update the construction schedule.
- Ensure timely delivery of materials, coordination of subcontractors, and adherence to critical path requirements.
- Identify schedule impacts and recommend corrective actions.

4.3 Quality Assurance & Contract Adherence

- Ensure that all materials, workmanship, and installation meet the standards required by the Construction Documents.
- Manage inspections, testing, and quality control processes.

4.4 Subcontractor Coordination

- Coordinate, supervise, and manage all subcontractors and suppliers.
- Maintain appropriate staffing, communication, and oversight to achieve efficient progress and high-quality work.

4.5 Cost Control & Financial Management

- Manage all project costs within the established GMP.
- Track expenditures, administer approved change orders, and maintain accurate financial reporting.
- Provide regular cost-to-complete forecasts and updates to the City.

4.6 Safety Management

- Implement and maintain a site-specific safety plan following all federal, state, and local requirements.
- Ensure subcontractor compliance with project safety standards.

4.7 Communication & Reporting

- Conduct regular construction progress meetings with the City and Design Team.
- Provide written updates on schedule, cost, quality, safety, and risk.
- Maintain transparent and timely communication with all project stakeholders.

4.8 Closeout & Turnover

- Complete all punch list items and closeout activities.
- Provide warranties, operations and maintenance (O&M) manuals, training for City staff, as-built drawings, and all required certifications.
- Ensure all systems are commissioned and operational prior to building turnover.

V. SUBMISSION CONTENTS

Responding firms should prepare a concise submission that includes the following elements:

1. Firm Information
   a. Name, physical and mailing address, e-mail contact, and telephone number(s) of the lead firm and any subconsultants.
   b. Identification of the primary point of contact.
2. Relevant Experience
   a. A summary of the firm's and team's experience with early design development.
   b. Highlight experience with cost estimating, site layout, and infrastructure assessment.
3. References
   a. At least two project references involving similar scope and scale. Each reference must include:
      i. Project name and brief description
      ii. Services provided
      iii. Client organization and contact person (including phone and email)
4. Key Personnel
   a. Names and qualifications of key personnel who will perform the work.
   b. Their specific roles, responsibilities, and anticipated time commitment to this project.
5. Project Capacity
   a. Statement of the firm's current workload and ability to assume this project within the proposed timeline.
6. Proposed Scope of Work
   a. A narrative describing how the GC/CM will approach and fulfill the services outlined in Section 3.
   b. Include any innovative methods, stakeholder engagement strategies, or value-added services the team will provide.
7. Deliverables, Timeline, and Budget
   a. A detailed list of deliverables.
   b. A preliminary construction timeline with milestones and estimated completion date.
   c. A preconstruction budget proposal that includes:
      i. Personnel by name and level of effort (hours or % FTE)
      ii. Direct costs (e.g., travel, printing, materials)
      iii. Subconsultant costs, if applicable
      iv. Total not-to-exceed amount

VI. SUBMISSION

Responding firms shall submit five physical copies and one pdf copy of your firm's response to this RFQ to:

Andrew Lehr
City Finance Officer
c/o: City of Hardin
406 N Cheyenne Ave
Hardin, MT 59034
cityfinance@hardinmt.com

VII. DEADLINE

Responses to this Request for Qualifications for GC/CM services will be received at the City of Hardin City Hall's office no later than **3:00 PM MST on Tuesday, December 23, 2025. It is the sole responsibility of the proposing firm to ensure that submissions are received prior to the closing time as late submittals will not be accepted and will be returned unopened.**

VIII. PROPOSED SCHEDULE

The following is the intended timeline for the Project

GC/CM Selection Timeline:

RFQ Issued:	December 10, 2025
Pre-Submission Meeting (Via Zoom) - Mandatory:	10:00 AM December 17, 2025
Deadline for questions or clarifications	5:00 PM December 17, 2025
RFQ Submission	3:00 PM December 23, 2025
Finalists Notified	5:00 PM January 2, 2026
Interviews:	January 5 – 9, 2026
Final Scoring & Selection:	5:00 PM January 14, 2026
Approval by Hardin City Council:	January 20, 2026
Preconstruction Services Contract:	February 3, 2026

Tentative Design/Construction Timeline:

Review of DD/CD set (75%):	February 2026
Construction Documents 100%:	March 2026
Construction Duration:	2026-2027

IX. EVALUATION AND GC / CM SELECTION PROCESS

Under this RFQ, the selection procedure is intended to evaluate the capabilities of interested GC/CM firms to provide services to the Owner for the Projects. The selection committee will establish a consensus rating for each category based on the overall merit of the written submissions in accordance with the criteria listed below. Interviews with the proposed teams are intended to be held according to the schedule provided above. The Owner will inform selected GC/CM of the time slot for their interview. The GC/CM will be selected by the committee based on the overall merit of its RFQ response, information attained throughout the RFQ phase, references, interviews, and information obtained from any other reliable source(s).

Evaluation Criteria

The qualifications will be scored based upon the following criteria:

Firm Information	Complete and clear contact details for lead firm and any subconsultants; designated point of contact.	5
Relevant Experience	Demonstrated experience in general contractor / construction manager services.	20
References	At least two relevant project references with full contact info, clear descriptions, and comparable scope/scale.	10
Key Personnel	Qualifications, roles, and level of effort of assigned staff; clarity on time commitment and relevance of expertise.	15
Project Capacity	Firm's availability and ability to complete the project on schedule based on current workload.	10
Proposed Scope of Work	Approach to services outlined in RFQ	20
Deliverables, Timeline, and Budget	Clear and realistic deliverables list, timeline, milestones, and a transparent, detailed budget.	20
Total Points		**100**

X. Selection of GC / CM

The City of Hardin reserves the right to award the contract solely upon the GC/CMs submitted materials. The City also reserves the right to request oral interviews with the highest ranked firms to allow expansion upon the written responses. If interviews are conducted, a maximum of three firms will be selected, with the final determination to be made through a qualification-based selection.

XI. INFORMATION FOR GC / CM FIRMS

Disclaimer

This RFQ does not form or constitute a contractual document. The City of Hardin shall not be liable for any loss, expense, damage or claim arising out of advice given or not given or statements made or omitted to be made in connection with this RFQ. The City will not be responsible for any expenses that may be incurred in the preparation of this RFQ.

A professional services contract will be required of the selected firm and if the contract fails to be negotiated in a timely manner, the City reserves the right to contract with another qualified firm.

Questions

Questions regarding the Request for Qualification contents may be sent to the contacts listed above via email no later than 5:00 PM Wednesday, December 17, 2025. The City will provide a written response within three business days. Whenever responses to inquiries would constitute a modification or addition to the original RFQ, the reply will be made in the form of an addendum to the Request for Qualifications, a copy of which will be posted on the City's website, under the Public Notices page at https://www.hardinmt.com

Non-Responsive Submissions

Submissions that offer "no response" on a response or "to be determined" to any item will be deemed "non-responsive" and returned to the submitted without being scored.

Examination of Documents

Before submitting, the proposer shall carefully review the terms of this request, be informed of the existing conditions and limitations, and include with the submission sufficient information to cover all items required in the specifications and evaluation. Upon the submission, the GC/CM acknowledges that all information is accurate and complete.

Submission Modifications

Modifications, additions or changes to the terms and conditions of this request for qualifications may be cause for rejection of the submission. No oral, telephone, email, fax or telegraphic submissions or modifications will be considered.

Certification of Alteration or Erasure

A submission shall be rejected should it contain any material alteration or erasure, unless, before the proposal is submitted each such alteration or erasure has been initialed in ink by the authorized agent signing the submission.

Signature

All submissions shall be typewritten or prepared in ink and must be signed in longhand by the proposer or proposer's agent or designee, with his/her usual signature. A submission by a partnership must be signed with the partnership name to be followed by the signature and designation of two partners. Submissions by corporations must be signed with the legal name of the corporation, followed by the name and signature of an authorized agent or officer of the corporation. Submissions by the proprietorship must be signed by the owner and the name of each person signing shall be typed or printed legibly below the signature. Signature for proposal shall be required on Attachment A – Proposer Information form, as well as any other formal letter or submission documents the proposer(s) deem necessary.

Withdrawal of Submissions

Proposers may withdraw their submission either personally or by written request at any time prior to the due date set for receiving submissions. No submission may be withdrawn or modified after the due date and time, unless and until the award of the contract is delayed for a period exceeding 90 days.

Quote Valid

The proposer must honor their budget/cost submission for a period of 90 days after the RFQ due date.

Certification

The proposer certifies that the submission has been arrived at independently and has been submitted without any collusion designed to limit competition. The proposer further certifies that the materials, products, services and/or goods offered herein meet all requirements of the stated specifications and are equal in quality, value and performance with the highest quality, nationally advertised brand and/or trade names.

Disposition of Submissions

All materials submitted in response to this RFQ become the property of the City of Hardin. One copy of each submission shall be retained for the official files of and will become public record after award of the Contract.

Contract

Within 15 calendar days after the date the Professional Services Contract is sent to the successful firm, the successful firm must fully execute and deliver the contract to The City of Hardin. Contract delivery may be completed through a scanned copy of the executed document, followed by a fully executed original copy sent via mail or other delivery service. If the successful firm fails to execute the contract, The City has the right to cancel the recommended award and reject the submission. The City may then proceed with the next most responsive firm.

ATTACHMENT A – Proposer Information

Proposer's Information Form

ACKNOWLEDGEMENT

The undersigned declares that she or he:

- Has carefully examined the RFQ specifications
- Is thoroughly familiar with its content
- Is authorized to represent the proposing firm; and
- Agrees to perform the work as set forth in the specifications of this request for qualifications.

PROPOSER (please print):

Firm Name: _____

Address: _____

_____

Telephone: _____

Email(s):

_____

Contact person, title, email, and telephone: _____

_____

Proposer, if selected, intends to carry on the business as (check one):

- ☐ Individual (sole proprietor)
- ☐ Partnership
- ☐ Corporation
  - When incorporated? _____
  - In which state? _____
- ☐ Other (explain): _____

Exhibit #1

PROPOSER'S SIGNATURE

No submission shall be accepted which has not been signed in ink in the appropriate space below:

By signing below, the submission shall be deemed a representation and certification by the Proposer that they have investigated all aspects of the RFQ, that they are aware of the applicable facts pertaining to the RFQ process, its procedures and requirements, and they have read and understand the RFQ. No request for modification of the submission shall be considered after its submission on the grounds that the Proposer was not fully informed as to any fact or condition.

1. If Proposer is INDIVIDUAL/SOLE PROPRIETOR, sign here

Date:_____ _____

Proposer's Signature

_____

Proposer's typed name and title

2. If Proposer is PARTNERSHIP, at least two (2) Partners shall sign here:

_____

Partnership Name (type or print)

Date:_____ _____

Member of Partnership Signature

Date:_____ _____

Member of Partnership Signature

3. If Proposer is a CORPORATION, the duly authorized officer shall sign as follows:
The undersigned certify that he/she is respectively:

_____ and _____

Signature Title

Of the corporation named below; that they are designated to sign the Proposal Cost Form by resolution (attach a certified copy, with corporate seal, if applicable, notarized as to its authenticity or Secretary's certificate of authorization) for and on behalf of the below named CORPORATION, and that they are authorized to execute same for and on behalf of said CORPORATION.

_____

Corporation Name (type or print)

Exhibit #1

Hardin Visitors Information Center
Hardin, MT – Programming & Preliminary Design

Issued Date: November 25, 2025

OWNER
City of Hardin
406 N Cheyenne Avenue
Hardin, MT 53034

ARCHITECT
Cushing Terrell
13 N. 23rd Street
Billings, MT 59101

Cushing Terrell

Hardin Visitors Information Center – Hardin, MT

PROJECT OVERVIEW:

This Visitor Center Project serves as a welcoming threshold to the wonders of Big Horn County, a place where stories, landscapes, and cultures intertwine. It is both a gateway and a gathering place, celebrating the area's deep history, diverse people, and enduring connection to the land. Every element of its design reflects a spirit of belonging, curiosity, and pride of place.

The intent is to create a living archive and active hub, where visitors can orient themselves to the landscape, explore local heritage, and engage directly with the community. The center becomes more than an informational stop, it's a launchpad for exploration, an amplifier of local voices, and a celebration of everyday beauty in Big Horn County.

The Big Horn Visitor Center stands as a bridge between past and future, land and people, local and visitor. It honors the depth of history and culture while fostering new opportunities for connection, recreation, and growth. Rooted in place, open to all, it is the heart or spoke of the wheel for the grander Big Horn experience.

ARCHITECTURAL:

Project Overview

The proposed Visitors Information Center in Hardin, Montana will be phased to realize the overall project vision over time. This package summarizes the work to date as part of the preliminary concept design.

The project will occupy a city owner parcel of 2.28-acres. The result will be a 5,113 square foot facility including a main lobby, welcome desk, exhibit gallery, community / multi-purpose space, administrative offices, restrooms, storage and infrastructure rooms to accommodate mechanical, electrical, plumbing and technology services.

Design Intent

Durable materials will be utilized to allow flexibility to grow over time. Concrete masonry units (CMU), metal panel siding, wood accents and glass storefront are planned for the building exterior.

Design elements in the building design are intended to evoke notions of the railroad, agrarian and native American culture. Interior and exterior exhibits will create opportunities to tell stories from Big Horn County history as well as develop spaces for new memories to be created.

See design deliverable for additional information.

Cost Control

The project will utilize grant funding for design and construction of the first phase. The funds currently available are $1,026,500. This will require some intentionality in designing the facility. An elongated building form is well suited to be added onto as additional funding is available. The site design also has flexibility to manage scope and deploy elements over time.

Our team has identified 3 potential paths allowing the initial phase to capitalized on the best impact related to dollars available.

- Option 01 – Building Focused
  - Install site related infrastructure focused on building functionality only. Walking paths and other design features would be held until later phases.
    - Scope could include the parking lot and sidewalks necessary to access the building safely (handicapped parking stalls). Curb, gutter and storm drainage included, but may consider a gravel parking lot.
  - Construction of the phase 01 building design would include restrooms, mechanical spaces, vestibule and small exhibit hall / main lobby.
- Option 02 – Site Focused
  - Develop the site to create outdoor gathering spaces, parking and associated site infrastructure. Civil and landscape would be the primary focus.
  - A pavilion structure could be developed utilizing the design intend of the future project. Due to limited soil barring capacities this option would be not include enclosed or conditioned program. The building out of that would be held for future phases.
- Option 03 – Hybrid

- Right size the priorities of each option seeking to find a balance between the two. Limit site development and landscape features to specific dollar amounts to retain as many dollars as possible for the building construction.
- Poor soil conditions are expected to result in larger than typical foundation costs. This will be validated once a Geotechnical Engineers has completed their assessment of the soils.

CIVIL:

Project Overview

The proposed Big Horn Visitor Center located in Hardin, Montana aims to serve as a gateway for tourism and local engagement. Located near the downtown corridor, the approximately 2.28-acre site currently has no existing buildings or infrastructure and is used by the City of Hardin to store excess materials. The project will transform this unimproved parcel to provide parking, pedestrian connectivity, and interpretive spaces. The site will be designed to facilitate efficient vehicle circulation with convenient ingress and egress from two sides of the property and will be integrated with the existing infrastructure to reduce conflicts and minimize impacts.

Site Constraints

Existing storm/irrigation ditches run along the northern boundary and flow along the proposed sidewalk walking paths and along the back of the visitor center. Mitigation strategies include analyzing the size and condition of the existing culvert on Vanzandt Road to ensure it is sized appropriately. The culvert will need to be extended from its current length to accommodate the proposed width of the approach off Vanzandt Road into the site. Topography is relatively flat with minor depressions requiring fill, which could be achieved with the current site stockpiles if the soil is deemed adequate for fill material. From the USGS web soil survey data, the site consists primarily of Kyle silty clay (65.2%) with 0–2% slopes and areas of saline land (34.8%). Kyle silty clay is poorly drained with slow permeability, which can lead to seasonal wetness and subgrade instability. Saline soils present challenges for vegetation growth and may cause corrosion of infrastructure if not properly managed. These conditions will require careful

drainage planning and soil stabilization for pavement areas. A geotechnical investigation will be necessary to further evaluate soil properties for building foundations and stormwater facilities, ensuring appropriate design measures are implemented.

Stormwater Design and Assumptions

Design criteria follow Montana DEQ Circular DEQ-8 (2024). Rainfall intensities are based on NOAA Atlas 14 PFDS data for Hardin, Montana with a 5-minute time of concentration: 3.16 in/hr for 2-year storms, 5.72 in/hr for 10-year storms, and 10.0 in/hr for 100-year storms and a 2-year, 24-hour precipitation depth of 1.62 inches, and a 100-year, 24-hour precipitation depth of 3.95 inches. Soil infiltration rates are assumed between 0.5 and 1.5 in/hr with a safety factor of 2, pending field verification from a geotechnical report. Detention sizing follows DEQ-8 Standard Plan guidance: 4,526 ft^3 total storage, which mitigates the difference between the pre and post development volume change for the 2-year, 24-hourstorm. Given the clay soils on site with assumed minimal infiltration and the site design concept, a subsurface stormwater facility located below the parking area is suggested. Detention sizing is subject to change based off impervious cover onsite.

Utilities

Existing water and sewer mains are located along N Mitchell Avenue and will serve the site. Proposed connections will tie into these mains, with final sizing and configuration determined during design. Electrical and natural gas services will be extended from nearby infrastructure and routed underground to the building. Utility design will be closely integrated with Cushing Terrell to align with the building's operational demands and layout.

Cost Estimate

The preliminary civil cost estimate for the Hardin Visitor Center is based on the schematic site design and anticipated scope of work. At this stage, costs are developed at a high-level using unit pricing and allowances for major site components, including grading, utilities, paving, and stormwater management. These figures are intended to provide an order-of-magnitude estimate for budgeting and planning purposes and will be refined as design progresses. Please see the table below and the assumptions:

Hardin Visitors Information Center – Hardin, MT

Preliminary Engineer's Estimate				
DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	AMOUNT
Site Grading	LS	1	$ 20,000.00	$ 20,000.00
Water Service	LF	137	$ 100.00	$ 13,700.00
Sewer Service	LF	251	$ 100.00	$ 25,100.00
Stormwater	LS	1	$ 41,450.00	$ 41,450.00
4" Thickness of Asphalt Concrete Pavement	SY	966	$ 35.00	$ 33,810.00
Concrete flatwork	SF	20,821	$ 10.00	$ 208,210.00
Concrete curb & gutter	LF	1,864	$ 25.00	$ 46,600.00
Construction Survey Staking	LS	1	$ 5,000.00	$ 5,000.00
Construction Administration	LS	1	$ 5,000.00	$ 5,000.00
			TOTAL ESTIMATED COST of CONSTRUCTION	$ 398,870.00
			Construction Contingency (20%)	$ 79,774.00
			TOTAL ENGINEER'S ESTIMATE	$ 478,644.00

Item	Key Assumptions	Inclusions	Exclusions
Site Grading (LS)	Balance on-site cut/fill; strip/stockpile 6 in topsoil; re-spread topsoil in disturbed areas; standard moisture/compaction	Mass earthwork: topsoil strip/respread; fine grading for pavements/flatwork	Rock excavation; unsuitable/over-excavation; soil stabilization; erosion control BMPs; haul off; seeding
Water Service (LF)	Depth 6.5 ft min cover; open-cut trench; native backfill; one main tap by utility	Pipe, fittings, tracer wire, thrust blocks; trenching, bedding, backfill	Meter set by utility; road bores; permits/fees
Sewer Service (LF)	Depth per invert from MEP and existing sewer main tie-in	Pipe/fittings; trenching, bedding, backfill, and manhole	Deep cuts >12 ft; dewatering; manhole rebuilds; grease/oil interceptors; taps/cores by utility
Stormwater (LS)	Minor network only: two curb inlets and two manholes, piping, boulder pit, storm swale	Structures, grates, boulder pit fill material; trenching/backfill	

Cushing Terrell.

Item	Key Assumptions	Inclusions	Exclusions
4 in Asphalt Pavement (SY)	No aggregate base included; standard tack and compaction; traffic striping by others	Mix design; placement/compaction; surface tolerance; joints; cleaning/tack	Aggregate base; proof-roll/remediation; patching beyond new work; striping/signage
Concrete Flatwork (SF)	Broom finish; sawcut joints 10–12 ft; subgrade prepared by grading; no aggregate base included	Place/finish; jointing; curing; dowels at tie-ins; ADA cross-slope ≤2% in walks	Aggregate base; colored/stamped concrete; handrails; detectable warnings
Concrete Curb & Gutter (LF)	Std 6 in curb & gutter; mix of forms and machine-placed; includes transitions at drives; tie to paving	Forms/placement; contraction joints; backfill; curb cut geometry at drives	Curb ramps/detectable warnings; integral sidewalk; specialty/architectural curbs
Construction Survey Staking (LS)	One mobilization; control/bench tie-in; set stakes for grading, utilities, paving, and curb; one re-stake cycle	Layout for civil work, as-built spot shots of utilities and rims	Building corners/structural; additional re-stakes;
Construction Administration (LS)	Office support; review submittals per discipline; respond to RFIs; 3 site visits (utility installation, grading/flatwork, punch list) and inspection reports	Submittal/RFI tracking; inspection reports; punch list	Fulltime RPR; material testing; additional meetings; record drawings beyond redlines
Contingency (20%)	Covers unknowns typical of preliminary design; minor quantity growth, utility conflicts, modest price variability	Applied to construction subtotal	Major scope adds

LANDSCAPE:

Design Intent

The overall concept for this site prioritizes accessibility, environmental stewardship, and community engagement. By blending structured spaces with natural elements, the design fosters a welcoming environment that encourages interaction, experiential learning, and relaxation.

Site Organization and Access

The vehicular entrances are positioned off N Mitchell Road and 10th street. The entrance off of N Mitchell will capture the main corridor of visitor traffic while the 10th street access allows an easier turn in for trailer, RVs, and trucks pulling boats. Both access points lead to a well-defined parking area that accommodates both standard, accessible spaces, and electric vehicle parking. The looped configuration ensures efficient traffic flow and easy drop-off access near the building entrance. Pedestrian pathways provided

from the parking zone create safe and intuitive connections to site features, including a respite area for travelers and any pets in the northeast corner.

Natural Integration and Sustainability

The northern edge of the site features an existing irrigation ditch, which not only can enhance the aesthetics of the site but also supports stormwater management strategies. Native plantings throughout the site reinforce ecological resilience and reduce maintenance needs. Tree clusters along the perimeter provide screening from adjacent properties while creating a sense of enclosure and privacy.

Building Placement and Orientation

The visitor center building is strategically located along the site's central axis, oriented to maximize views of the intended site elements as well as creating an East facing entry, an important element to native American culture. This placement creates a strong visual anchor while maintaining proximity to parking and outdoor gathering spaces. The building's adjacency to landscaped areas softens its edges and integrates it into the natural context. This also allows for several outdoor educational opportunities for the user to journey through the site.

Outdoor Spaces and Programming

As the user journeys through the site, outdoor elements include native planting that highlight medicinal, edible, and cultural plants paying homage to the native American roots of the area. Continuing around the building, a thoughtfully designed landscape will represent the Bighorn Canyon and river as well as popular history and stories like that of Big Metal. Passing to the west, representations of the areas agricultural history begin to appear in the landscape. Then to the south, a large circular plaza serves as a flexible gathering space for events, outdoor learning, or informal recreation. Rock circles and patterns in the concrete will accompany all circular plazas to integrate the native American history and culture. Nearby, a series of rectangular garden plots introduce opportunities for community gardening or educational programming. Monuments in the passive areas of this landscape represent and mimic that of the Battle of Little Bighorn and can provide another educational experience of the rich history of this land. These spaces are framed by tree plantings, offering shade and seasonal interest.

Outdoor Spaces and Programming

The design for this triangular site emphasizes connectivity, functionality, and harmony with the surrounding landscape while maximizing the area within constraints from existing elements and possible future easements. Whether a convenient spot for a traveler passing through and in need of respite, or a community gathering spot for

multipurpose activities, the site will provide the user with a relaxing journey through history.

STRUCTURAL:

Foundation System

Based on project experience in the surrounding area, the subgrade for this building is likely to consist of expansive clays in approximately the upper 5 feet below grade, with underlain compressible clays down to approximately 35 feet where the soil is expected to transition to a poorly graded gravel with silt and sand composition. Bedrock is expected to be around 45 feet to 50 feet below grade. Due to the expected nature of the existing clay soils, this building will likely have a foundation system geotechnical recommendation of either deep foundations such as driven piles, or a mat slab foundation. Either way there will likely be required over-excavation underneath the entire building footprint, potentially upwards of 5 feet.

The expected loading of this structure is not anticipated to be great, so the mat slab foundation has potential to achieve the building needs from a soil bearing and settlement mitigation perspective, as well as being the cost-friendly option between the two likely foundation system recommendations. One key design element that will need to be addressed in the schematic and design deliverable portions of the project will be how to best design and build the foundation for the phased approach of this project. With the potential 3–5-foot over-excavation, there would be potential to undermine the mat slab of the previous phase(s) during construction of the later phase(s).

There will likely be a subgrade foundation drain around the perimeter of the building sub-excavation that will need to be tied into a sump pump system. There is also a potential requirement for a non-permeable layer around the building which could affect allowable landscaping directly adjacent to the building. The non-permeable layer might consist of a layer of woven fabric with a low permeability rate overlaid with a 12–18-inch layer of clay soil. Vegetation roots will likely need to be considered.

With the importance of the exterior hardscape and overall exterior landscaping for this building, the subgrade will be an important item to address outside of the building footprint as well. Due to the expected nature of the existing clay soil, there will be high potential for soil heave. This could cause cracking and uneven surfaces in the exterior pathways around the structure, as well as throughout the parking lot. It is reasonable to expect additional work in these areas in order to mitigate adverse soil impacts to the new construction. An example of the additional work would be over-excavation of the

expansive clay soils underneath the critical exterior elements, and replacement of the soil with non-frost susceptible gravel.

Building Gravity System

Based on the proposed layout and aesthetic of the building, the gravity system will consist of structural steel with exposed architectural wood. The potential for multiple roof decks, clerestory windows, exterior wall ribbon windows, and non-uniform solid interior walls all point towards a post-and-beam-based structural system rather than a bearing wall/light-framed wood construction based structural system. The columns along both the exterior walls and the interior bearing lines will be hollow structural steel (HSS) members. The roof framing will consist of structural steel wide flange beams that will accommodate the multi-sloped roof. Exterior and interior walls will be framed with cold-formed steel metal studs. These studs will be more compatible with the structural steel frame and be able to accommodate the larger proposed windows of the building better than traditional stick framed wood walls. The roof deck will be a ribbed metal deck.

Depending on the final architectural aesthetic of the building, it is expected there will be exposed glued laminated beams throughout the building. Based on the gravity system described, the glued-laminated beams will be architectural only. Detailing between the steel and glued-laminated wood will be addressed in the schematic and design portions of the project but will result in a seamless finished look between the two materials. The exterior exposure of the glued-laminated beams will need to be addressed to prevent deterioration and degradation caused by the natural elements. There are options such as preservative treatments for the wood framing, end cap plates, as well as wood species that are not susceptible to water damage such as Alaskan Yellow Cedar. These options will be vetted by the design team to ensure a long-term solution for the structure.

There is a potential for the glued-laminated beams to double as the main structural roof framing for the building. This would save on overall material cost as it would alleviate the need for some of the wide-flanged structural steel members but is dependent on the building lateral system. Connections between the HSS columns and the glued-laminated beams could be detailed to be concealed or exposed and would be tailored to the architectural design of the building. See the Building Lateral System discussion for more regarding the requirements surrounding this approach.

Building Lateral System

The lateral system of this building will need to be able to be expanded upon as the various phases are constructed. At this conceptual design phase, the lateral system

could consist of structural steel braced frames, structural steel moment frames and/or cold-formed steel shear walls sheathed with wood based structural panels (plywood or oriented-strand board). The difficulty of the lateral system will be in the building layout. The project location will have moderate design parameters from a wind and seismic perspective, which will allow common detailing practices in lieu of specialized detailing common in higher earthquake prone regions.

A potential lateral system for this structure could also be a cantilevered column system. The structure is an appropriate size to consider this approach. The benefit of using a cantilevered column system is three-fold for this project. The first reduction is laterally detailed connections, the second is there would be no required braces to architecturally maneuver around, the third would be the potential to use the architectural glued laminated beams as the main structural elements in the roof. With the cantilevered column system there are no frame elements, which means the roof members do not have to actively participate in the lateral system. The drawbacks to this approach are (1) a potential increase in design forces, (2) a potential for excessive building drifts and (3) larger columns.

Minimizing the number of lateral elements while still tying in the multiple roof decks and accommodating the exterior window layout will be the critical path for the lateral system. There is a potential to oversize the lateral elements in phase 1 so that the number of lateral elements in phase 2 is minimized. That approach may help both construction sequencing as well as reduce the overall number of lateral elements for the final overall structure. In the schematic and design phases consideration will be given to the interior wall development of the building, the window location development, and the roof deck orientation, as all will play into the lateral system moving forward into the construction document and actual construction phases of this project.

PLUMBING:

Scope Overview

Plumbing fixtures for the visitor information center will include water closets, lavatories, electric water coolers, sinks, and urinals. Based on experience on an adjacent site, foundation drainage is anticipated to be required.

Codes

The following codes form the basis of the plumbing design:

- 2021 Uniform Plumbing Code (UPC)

- 2021 International Energy Conservation Code (IECC)
- 2021 International Mechanical Code (IMC)
- 2021 International Building Code (IBC)

Domestic Water

The site is currently undeveloped, requiring a new domestic water service entrance. For planning purposes, the entrance is anticipated to be a two-inch line size to account for the fixture usage and water pressure availability. The service entrance will be made in the mechanical room areas and consist of a utility water meter and a single backflow preventer. The size of the meter and backflow preventer will be determined during design development based on the full build-out of fixtures, taking into consideration fixture type and water consumption. Piping materials will be copper with lead-free soldered joints and fittings, and low-lead content valves to comply with the UPC.

Domestic hot water will be generated by an electric storage water heater with circulation pump. The circulation pump will be controlled to operate during occupied hours only and also use a strap-on thermostat to start/stop based on piping temperature. Domestic hot water to public lavatories will be within 24 inches of the angle stop valve to comply with the IECC.

Domestic hot and cold water will be insulated with fiberglass insulation with all-service jacket to comply with the IECC and UPC. All cold water pipe size insulation will be one-inch thick. Hot water pipe insulation will range from one-inch thick to two-inches thick based on the size of the piping.

Overhead piping will be routed to be as unobtrusive as possible, grouped with sanitary vent piping serving remote fixtures.

Sanitary Waste and Vent

Sanitary waste and vent piping will be a combination of schedule 40 polyvinyl chloride (PVC) pipe and fittings and no-hub cast iron pipe and fittings. PVC pipe and fittings will be used below grade and stubbed up through the floor at each fixture; all above floor vent piping will be either no-hub cast iron piping (for use in return air plenums) or PVC (exposed to the space). Overhead piping will be routed to be as unobtrusive as possible, grouped with domestic water piping serving remote fixtures. A single vent through roof is expected to be used.

Plumbing Fixtures

Plumbing fixtures will be a mix of vitreous china and stainless steel. Restroom fixtures will be vitreous china, with stainless steel used for breakroom sinks and an electric water

cooler. Water closets will be low-consumption at 1.28 gallons per flush (gpf) flush-valve type toilets. Urinals will be 0.5 gpf flush-valve fixtures, and public lavatories will be 0.5 gallons per minute (gpm) to comply with the UPC and IECC. The faucet for the breakroom sink will be a 1.5 gpm faucet.

An electric bi-level water cooler with bottle filler will be provided. The cooler will incorporate filtration to remove chlorine for taste and per- and polyfluoroalkyl substances.

Natural Gas Piping

Mechanical heating equipment is planned to be natural gas-fired. Piping for this system will be schedule 40 steel pipe with malleable iron threaded fittings and will be limited to the mechanical equipment room.

Foundation Drainage

Anticipated site conditions will require a perimeter foundation drain tile into an exterior sump to minimize building foundation and slab concerns. A duplex sump pump will discharge the ground water into the site civil storm water management system.

MECHANICAL:

Codes

The following codes form the basis of the plumbing design:

- 2021 International Energy Conservation Code (IECC)
- 2021 International Mechanical Code (IMC)
- 2021 International Building Code (IBC)
- 2021 International Fire Code (IFC)
- 2022 ASHRAE Standard 62.1 Acceptable Indoor Air Quality

Heating and Air Conditioning

The approximately 5,000 square foot facility will be served with (3) gas fired furnaces with integral evaporator cooling coils. Two Furnaces will be installed in construction phase one, and a third furnace is planned for installation during construction phase two. The furnaces will be in a centralized mechanical room. Condensing units will be ground mounted on the North side outside the mechanical room. Furnaces will be zoned based on the building orientation for thermal comfort. One 5-ton, 2,000 CFM gas furnace will serve the North side of the building from the storage room to the Women's restroom. This furnace will be sized and ductwork prepared to handle the planned phase 2 and 3 North side rooms including the office, break room and meeting room. A second 2,000

CFM 5-ton gas furnace will be dedicated to the southeast portion of the building to serve the Phase one Atrium, Exhibit area and Main Lobby. Ductwork will be mostly concealed and run above the rooms on the north side of the Atrium with diffusers to throw air across the Atrium to the Gallery and Lobby. Low return grilles will be placed on the mechanical room wall to return air from the Atrium. A space in the mechanical room will be reserved in phase 1 for a future third furnace. This furnace will be planned for installation in phase two. This 5-ton furnace will serve the Atrium and Exhibit Gallery planned for phase two and phase three. This future furnace be ducted in a similar manner to the furnace serving the phase one gallery.

The furnaces will be a minimum of 90% efficient and the cooling system will have a minimum seasonal efficiency rating of 14 SEER. Ductwork will be galvanized sheet metal follow SMACNA Standards and humidification will be provided to maintain humidity requirements for the exhibit areas.

Ventilation

A 1000 CFM energy recovery ventilator (ERV) will be provided to supply pre-heated outside air to the furnace system for distribution throughout the building. The ventilator will pull its exhaust air from the restrooms and discharge through a louver on the North side of the building. The ERV will be ceiling hung in the mechanical room.

ELECTRICAL:

Codes and Standards:

The building Electrical systems will be designed in accordance with the following current building codes:

- 2021 IBC International Building Code
- 2021 IMC International Mechanical Code
- 2021 IFC International Fire Code
- 2021 IECC International Energy Conservation Code

The electrical design will also follow the latest adopted edition of the following guidelines and standards.

- NFPA 70 – National Electrical Code
- NFPA 72 – National Fire Alarm Signaling Code.

Power Distribution

Utility primary will be coordinated with Bighorn Power Cooperative in Hardin Cooperative to a pad mount transformer for serving the building. A new main panel and potential sub-panel will be installed in the building electrical room to serve the building electrical power and lighting loads. Power distribution will be installed to exterior power pedestals as needed for food trucks, events and RV hookups.

Lighting

LED lighting technology will be provided for all interior lighting, with more utilitarian fixtures in back of house type areas. Decorative type lighting fixtures, coordinated with the interiors package.

Interior lighting controls will utilize occupancy sensors, smart wall switches and smart wall dimmers to comply with energy code requirements and allow for flexibility for users to adjust levels as necessary. Other special use areas will utilize wall stations with lighting zones and time functions. Corridor areas will be designed with occupancy sensing and dim down to a set level when no occupants are present. OR rooms will be provided with sealed LED light fixtures designed for producing high light levels required in an OR room.

Per the NEC and IBC codes, Emergency lighting will be provided a lighting inverter for powering exit signage, emergency egress lighting and exterior building entrance/exits with emergency egress lighting. Lighting fixtures with battery backup will be provided where required per IBC and NEC codes (i.e., trauma, resuscitation, mechanical rooms, etc.).

LED exterior lighting will be provided for building entrances, building accent, pathways and parking lot areas. All exterior lighting will be designed with cut-off type optics to prevent glare and to uphold dark sky standards. Light levels will be designed at a minimum for area security and for security cameras to capture images adequately. Flagpole lighting will also be provided to accent the United States, SEARHC and Alaska State flags.

Exterior lighting controls will be designed for flexibility in control. All lighting will be turned on via photocell with potential for override and with flexibility to turn off certain

portions of lighting at set times. In addition, parking lot area lighting will be designed with the capability for group-controlled dimming when no cars or occupants are present to save energy. Exterior light poles will be mounted on a concrete base, and poles will be equipped with a provision for a potential security camera with 1" conduit stub from the pole to a ground box adjacent the pole.

Fire Alarm and Detection

A Fire Alarm system will be designed for the building in accordance with the IFC and NFPA 72. This system will consist of a full coverage smoke detection system, speaker and visible notification throughout and monitoring of the fire sprinkler system. Smoke duct detection will be installed in return ducts of air handling equipment for shutdown or zone isolation during smoke conditions. Fire smoke dampers will be monitored and closed up upon detection of smoke. A main fire alarm panel is anticipated at the main entrance.

COMMUNICATIONS & AUDIOVISUAL:

Project Overview

The technology design for the Big Horn Visitor Center located in Hardin, Montana focuses on providing robust infrastructure to support security, communications, and audiovisual needs while allowing flexibility for future expansion. Systems will be integrated with architectural and MEP designs to ensure seamless coordination and functionality. Below are options for the city to consider for the building.

Structured Cabling and Connectivity

The backbone cabling will include voice, data, and CATV infrastructure:

- Voice: Category 3 UTP copper
- Data: OM4 multimode and OS2 single-mode fiber optic
- CATV: Hardline coaxial copper

Horizontal cabling will consist of Category 6 UTP for voice/data and RG-6 quad-shielded coaxial for CATV, with RG-11 used for longer runs. Wireless access points will be spaced for full coverage, supporting 802.11ac connectivity. Technology rooms will be sized for current and future needs, with proper clearances and cable management systems.

Termination and Grounding

Fiber, voice, and CATV backbones will terminate in designated panels and cabinets. Horizontal cabling will terminate on RJ-45 patch panels. A comprehensive grounding and bonding system will be installed in all technology rooms.

Audiovisual Systems

AV systems will be provided in common spaces per owner standards, with input locations coordinated during design.

Cost Estimate

The schematic cost for technology systems is estimated at $12.50 per square foot. This figure includes structured cabling, security systems, audiovisual components, and backbone infrastructure. The estimate is preliminary and will be refined as project objectives and system requirements are further defined during design development.

SECURITY:

This Schematic Design Narrative outlines the security strategy for the Big Horn Visitor Center. The design utilizes Crime Prevention Through Environmental Design (CPTED) principles to enhance natural surveillance, improve territorial reinforcement, and create safe, intuitively navigable public spaces. Special considerations include long response times, open-access interpretive landscape zones, high-value RV and trailer parking areas, and the need to support visitor comfort while mitigating security risks.

The following Good, Better, and Best tiered security plans provide scalable options that align with project goals, budget, and operational expectations. Each tier addresses controlled vehicular access, lighting, camera coverage, restroom CPTED requirements, and design considerations for critical outdoor features such as the irrigation ditch corridor and event spaces.

- BEST Security Plan (Option 1)
    - Controlled Vehicle Entrance
        - Single-controlled entry point with the following features
            - License Plate Reader (LPR) camera for vehicle tracking.

- Curbed and narrowed approach creating a natural choke point.
- Pedestrian-scale lighting on both sides of the entry lane.
- Speed-mitigation such as raised table or S-curve geometry.
- Celebrated entry feature providing natural access control.

- Parking Lots
  - Lighting
    - Full-cutoff LED lighting achieving 1 fc average-maintained illumination.
    - 20–25 ft poles to eliminate shadowing between vehicles.
    - ADA/EV Parking spaces with lighting.
    - Distribution aligned with camera visibility.
  - Cameras
    - Hybrid thermal-visible or varifocal cameras for full-lot coverage.
    - Analytics for loitering, intrusion, and tampering.
    - Camera poles mounted at 20–25 ft.
- RV/Boat/Trailer Parking
  - Lighting
    - 20–25 ft poles at perimeter corners.
    - Illumination minimizing shadows between tall vehicles.
    - Minimum 1 fc average-maintained lighting.
- Monitoring
  - Hybrid thermal-visible camera providing complete-lot visibility.
  - Analytics for loitering and vehicle tampering.
  - Pole height of 25–30 ft for unobstructed views.
  - Irrigation Ditch Corridor
  - Vegetation Thinning
    - Vegetation shall remain ≤ 30 inches.
    - Trees limbed to 7 ft to preserve sightlines.
    - Removal of dense shrubs to eliminate concealment.
  - Lighting
    - Pedestrian-scale fixtures along pathway edge.
    - Horizontal light distribution across ditch slopes.

        - Bollard-mounted lights in recessed or steep areas.
    - Restroom Design
        - General CPTED Requirements
            - Layout supports visibility and safety while preserving privacy.
            - Entrances use L-shaped or offset design to avoid direct line-of-sight.
            - No recessed alcoves or blind corners near entries.
        - Lighting
            - Uniform LED lighting eliminating interior shadowing.
            - Minimum 10 foot-candles at floor level.
            - Bright, low-glare lighting at entrances supporting corridor camera visibility.
        - Cameras (Exterior Only)
            - Overt cameras monitoring restroom entrances.
            - Full coverage in all lighting conditions.
            - Cameras not placed directly above restroom signage to preserve privacy.
        - Access Control and Hardware
            - Emergency access hardware for staff.
            - Occupancy indicators on gender-neutral restrooms.
            - Anti-vandal hardware and tamper-resistant fasteners.
        - Interior Layout & Fixtures
            - Minimum 12-inch stall bottom gap for emergency checks.
            - Sinks partially visible from entry threshold (without exposing stalls).
            - Vandal-resistant soap dispensers, dryers, and fixtures.
- BETTER Security Plan (Option 2)
    - Controlled Vehicle Entrance
        - Single entry without LPR integration.
        - Standard lighting at vehicle approach.
        - Wayfinding provided by signage or art installation.
    - Parking Lots
        - Lighting
            - Standard LED illumination.

        - Reduced pole count compared to Best option.
    - Cameras
        - Standard varifocal cameras.
        - Monitoring without analytics.
- RV/Boat/Trailer Parking
    - Lighting
        - Standard lot lighting with reduced uniformity.
        - Lighting primarily along path-to-entry areas.
    - Monitoring
        - One or two cameras covering entrances/exits.
        - Basic NVR recording.
- Irrigation Ditch Corridor
    - Basic vegetation pruning near walkways.
    - Limited lighting near high-traffic areas.
- Restroom Design
    - Basic CPTED layout maintaining clear entry visibility.
    - Standard LED lighting with minimal shadowing.
    - Exterior corridor camera coverage.
    - Standard commercial-grade hardware.
    - Vandal-resistant fixtures where feasible.

- GOOD Security Plan (Baseline)
    - Controlled Vehicle Entrance
        - Single vehicular entry defined by curbing and signage.
        - No monitoring or speed-control elements.
    - Parking Lots
        - Lighting
            - Basic LED poles at perimeter.
            - Lighting primarily at main entry approach.
        - Cameras
            - Fixed camera observing lot entry.
            - Limited building-mounted cameras.
    - RV/Boat/Trailer Parking
        - Minimal lighting.

        - Cameras strategically placed in high traffic areas
    - Irrigation Ditch Corridor
        - Basic vegetation maintenance.
        - No dedicated lighting included.
    - Restroom Design
        - Standard layout with basic CPTED considerations.
        - Standard lighting at entry only.
        - Dedicated camera coverage at high traffic areas.
        - Standard commercial fixtures and hardware.

The Big Horn County Visitor Center is envisioned as a safe, welcoming, and accessible destination for residents, visitors, and travelers. This Security Schematic Design Narrative applies Crime Prevention Through Environmental Design (CPTED) principles to strengthen natural surveillance, improve visibility, and support intuitive wayfinding throughout the site while maintaining the aesthetic and cultural character of the campus. The tiered Good, Better, and Best security options provide scalable strategies for lighting, surveillance, access control, and restroom design, as well as focused recommendations for unique areas such as the irrigation corridor and RV/boat/trailer parking. These recommendations are designed to enhance safety, reduce vulnerabilities, and ensure the facility operates efficiently and confidently as a valued gateway to the region.

Exhibit #1

MAYOR
Joe Purcell

POLICE CHIEF
Paul M. George Jr.

PUBLIC WORKS DIRECTOR
Michael Hurff Jr.

FINANCE OFFICER/CITY CLERK
Andrew Lehr

Addendum No. 1 – Attendance Confirmation

Visitor Information Center
Date Issued: December 19, 2025

Purpose

This addendum documents virtual attendance at the mandatory pre-submission meeting for the Visitor Information Center Project in Hardin, Montana. Only firms listed below are eligible to submit a response to the RFQ.

Firms Completing the Pre-Submission Meeting

Firm Name	Representatives Name	Date of Meeting
Langlas & Associates	Jason Hubbard	12/17/25
Jackson Contractor Group	Charlie Lohof Nick Van Tighem	12/17/25
Yellowstone Basin Construction	Kevin Wood	12/17/25
Swank Enterprises	Randy Stone Cody Hammel	12/17/25
R&R Taylor Construction Inc.	Bill Siebrasse Jaden Stanley – Williams	12/17/25
Wyman Construction	Sean Wyman	12/17/25

Clarifications

-Verbal statements made during the pre-submission meeting are not binding.
-A final addendum with responses to all submitted questions will be issued December 19, 2025

Issued By:
City of Hardin
Name: Andrew Lehr
Title: Finance Officer / City Clerk
Signature: Andrew Lehr
Date: 12/19/25

Exhibit #1

MAYOR
Joe Purcell

POLICE CHIEF
Paul M. George Jr.

PUBLIC WORKS DIRECTOR
Michael Hurff Jr.

FINANCE OFFICER/CITY CLERK
Andrew Lehr

Addendum No. 2 – Response to Questions

Visitor Information Center
Date Issued: December 19, 2025

Purpose

This addendum is to respond to written questions submitted in reference to the RFQ for General Contractor Construction Manager services for the Visitor Information Center in Hardin, Montana.

This Addendum must be acknowledged in the RFQ submission.

Response to Written Questions

Question 1:
Can the RFQ response be moved back to 12/31 due to the holidays?

Response: At this time, we are unable to extend the RFQ response deadline beyond the currently advertised date. The project timeline requires us to proceed as scheduled. That said, we completely understand the challenges of the holiday season and appreciate your consideration of the opportunity. We hope you are still able to submit a response and look forward to reviewing it if so.

Question 2:
Will the Addendum be posted on the City of Hardin website and the Builder's Exchange, or will it be sent directly to those in the mandatory pre-submission meeting?

Response: The Addendum will only be sent to those who attended the RFQ Pre-Submission Meeting.

Question 3:
Can you please confirm this is a details list of deliverables for preconstruction?

Response:
Please see Attachment C.

Exhibit #1

Question 4:
Given preconstruction services contract is set to be issued February 3rd and 100% construction documents are assumed to be issued March of 2026, we are looking at 4-6 weeks of preconstruction services. Can you please verify what stage the documents will be in at the issuance of the preconstruction services?

Response:
At the time the preconstruction services contract is issued, the construction documents are expected to be at 100% Schematic Design. Please note that this timeline is subject to change and will be dependent on coordination with the architect and the City of Hardin.

Question 5:
Given the short timeframe for preconstruction services, what will the owner/contractor/design review meeting schedule look like? Are we to anticipate 1 meeting per week or will there be multiple?

Response:
During the preconstruction services period, it is anticipated that the owner/contractor/design team will meet at least once per week. The meeting frequency may be adjusted as needed based on project progress and specific coordination requirements and will be confirmed and refined upon execution of the preconstruction services contract.

Attachments

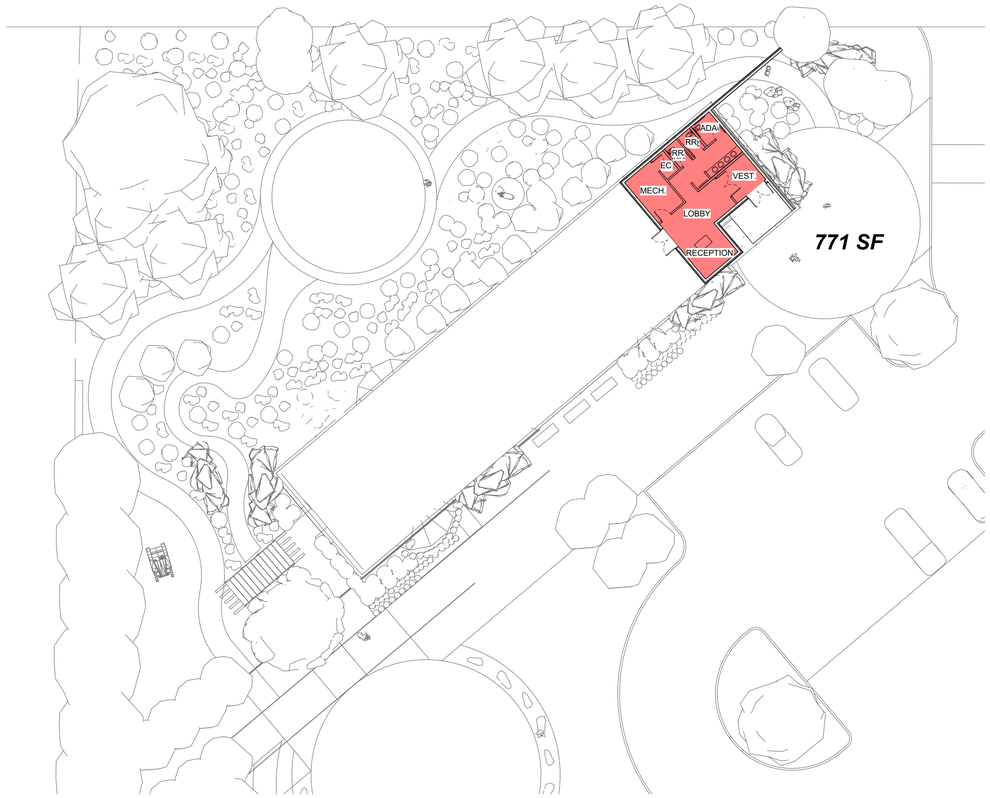
- **Attachment A: HARDVIC_Design Phases_12.18.2025pdf**
- **Attachment B: HARDINVIC_Site Design Phases_12.18.25.pdf**
- **Attachment C: AIA Documents**

Issued By:
City of Hardin
Name: Andrew Lohr
Title: Finance Officer / Clerk
Signature: Andrew Lohr
Date: 12/19/25

End of Addendum No. 2

Exhibit #1

Cushing Terrell.
cushingterrell.com
800.757.9522



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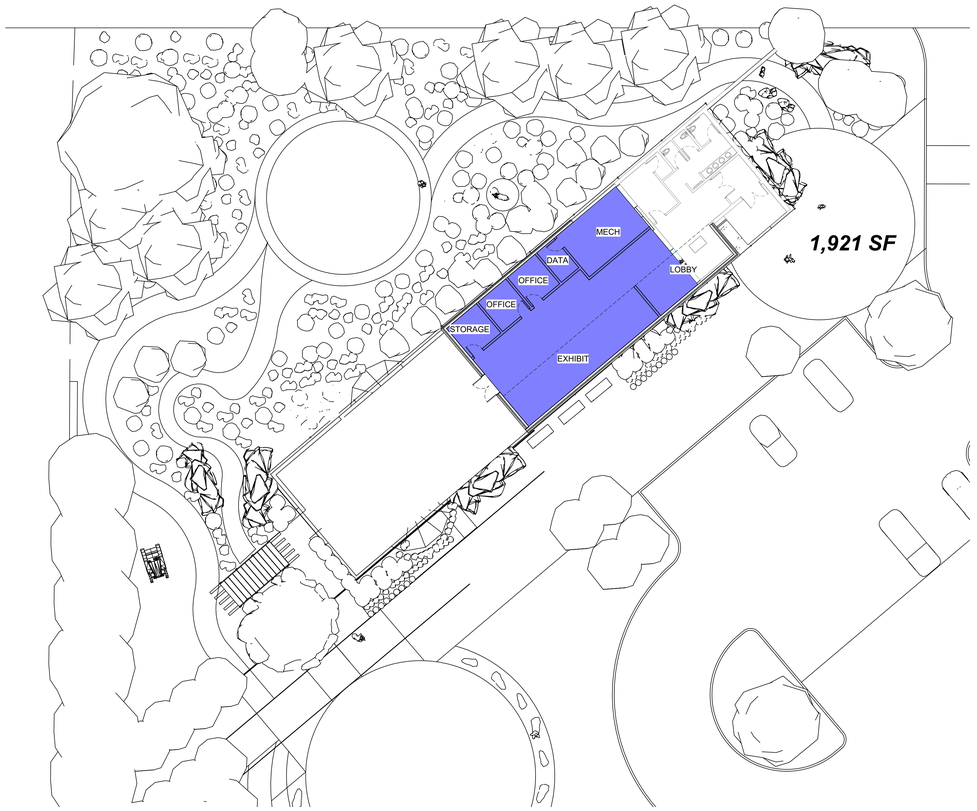

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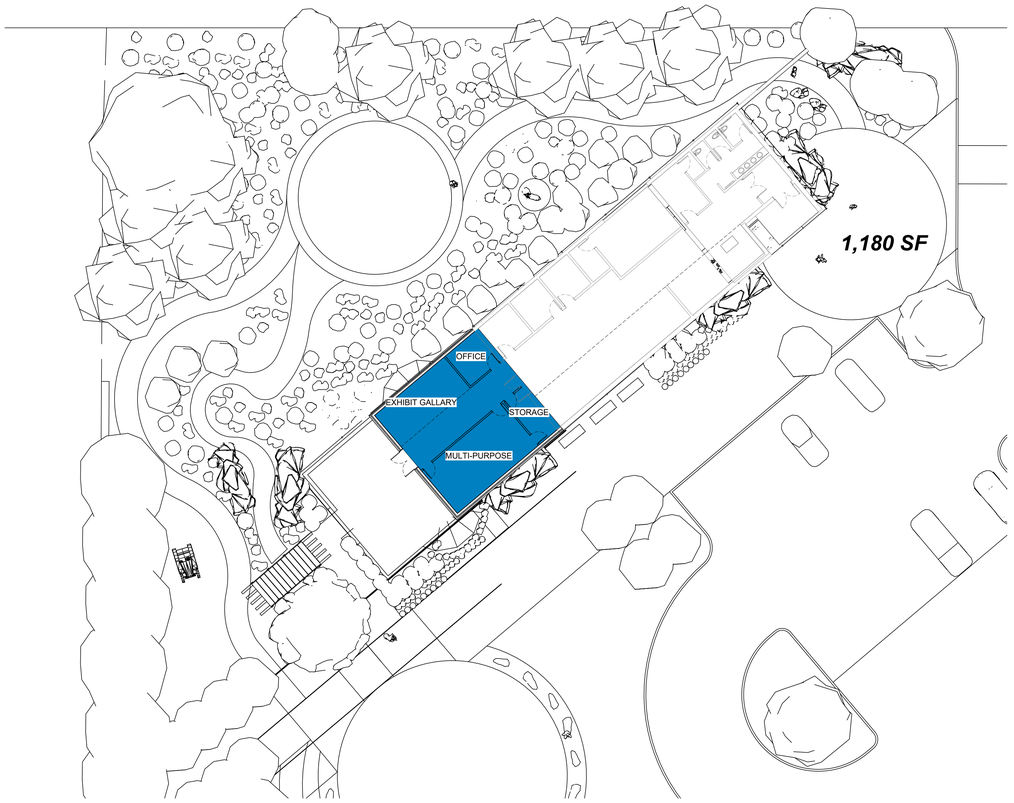
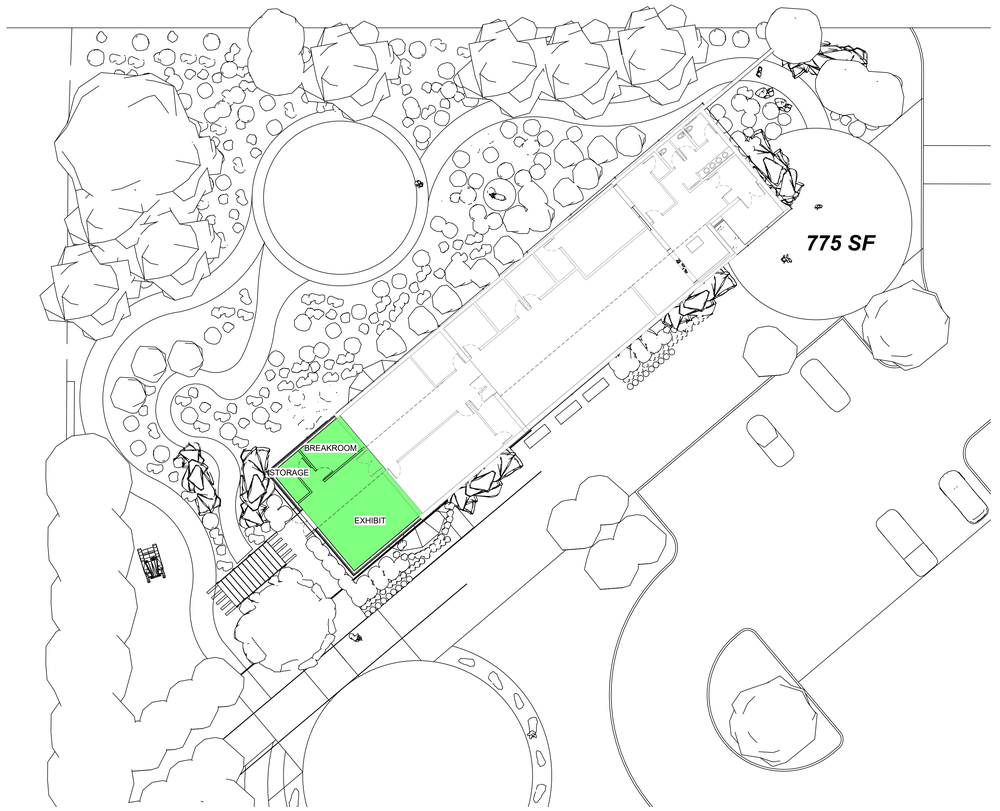


3 _AAA _PHASE 03
1/16" = 1'-0"



4 _AAA _PHASE 04
1/16" = 1'-0"

NOT FOR CONSTRUCTION - PRELIMINARY DESIGN

HARDIN, MT
CITY OF HARDIN

BIG HORN VISITORS INFORMATION CENTER

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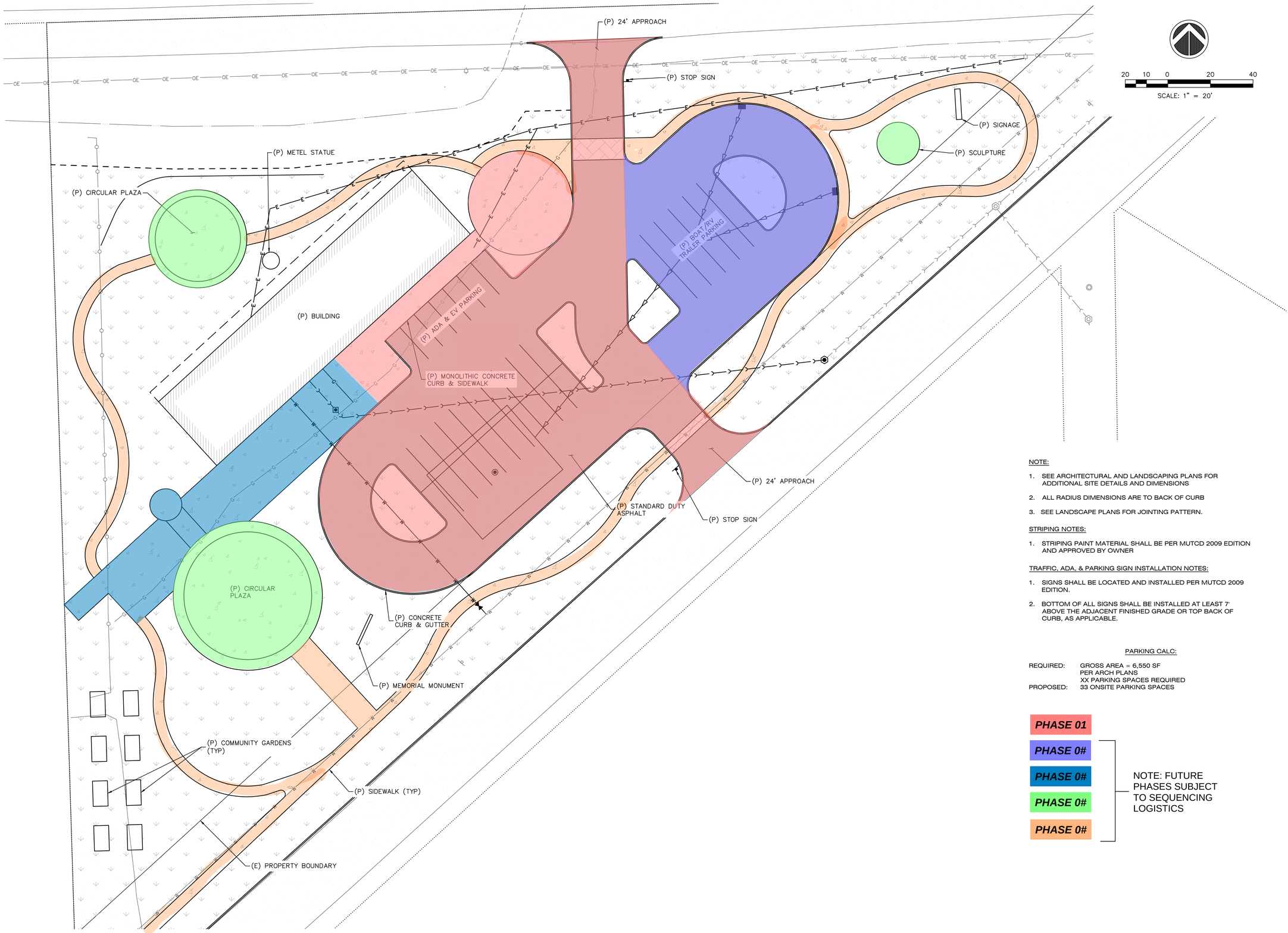
SCHEMATIC DESIGN

01.30.2025
PROJ# | PROJECT#
DESIGNED BY | LAST NAME
DRAWN BY | LAST NAME
REVIEWED BY | LAST NAME
REVISIONS

Design Plans

_AAA

Exhibit #1



20 10 0 20 40

SCALE: 1" = 20'

NOTE:

1. SEE ARCHITECTURAL AND LANDSCAPING PLANS FOR ADDITIONAL SITE DETAILS AND DIMENSIONS
2. ALL RADIUS DIMENSIONS ARE TO BACK OF CURB
3. SEE LANDSCAPE PLANS FOR JOINTING PATTERN.

STRIPING NOTES:

1. STRIPING PAINT MATERIAL SHALL BE PER MUTCD 2009 EDITION AND APPROVED BY OWNER

TRAFFIC, ADA, & PARKING SIGN INSTALLATION NOTES:

1. SIGNS SHALL BE LOCATED AND INSTALLED PER MUTCD 2009 EDITION.
2. BOTTOM OF ALL SIGNS SHALL BE INSTALLED AT LEAST 7' ABOVE THE ADJACENT FINISHED GRADE OR TOP BACK OF CURB, AS APPLICABLE.

PARKING CALC:

REQUIRED: GROSS AREA = 6,550 SF
PER ARCH PLANS
XX PARKING SPACES REQUIRED
PROPOSED: 33 ONSITE PARKING SPACES

PHASE 01

PHASE 0#

PHASE 0#

PHASE 0#

PHASE 0#

NOTE: FUTURE PHASES SUBJECT TO SEQUENCING LOGISTICS

Cushing Terrell.
cushingterrell.com
800.757.9522

IMEG

NOT FOR CONSTRUCTION — PRELIMINARY DESIGN

HARDIN, MONTANA
CITY OF HARDIN

BIG HORN VISITOR CENTER

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SCHEMATIC DESIGN

11/21/2025
PROJ# | HARDINVIC
DESIGNED BY | ALR
DRAWN BY | GRW
REVIEWED BY | KLK
REVISIONS

SITE PLAN

C300

G:\2025\25005082.00\Design\Civil\C3D\Plot\25005082_C300.dwg – LAST PLOTTED ON Fri 11/21/25 – 10:59AM BY Amber.L.Ruff

Exhibit #1

DRAFT

AIA® Document A201™ – 2017

General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)

«Visitor Information Center»
«920 North Mitchell Avenue, Hardin, Montana 59034»

THE OWNER:
(Name, legal status and address)

« City of Hardin »« »
« 406 North Cheyenne Avenue, Hardin, Montana 59034 »

THE ARCHITECT:
(Name, legal status and address)

«CTA Inc. -»«dba Cushing Terrell »
« PO Box 1439, Billings, Montana 59103 »

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ADDITIONS AND DELETIONS: The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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User Notes: (1160869715)

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or

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relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

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§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as

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the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

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§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

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§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

.1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

.2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and

.3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and

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similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will

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specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

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§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

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§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in

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number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- **.1** assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- **.2** assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

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§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

.1 The change in the Work;
.2 The amount of the adjustment, if any, in the Contract Sum; and
.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
.2 Unit prices stated in the Contract Documents or subsequently agreed upon;
.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
.4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;

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.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and

.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

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§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

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§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- **.1** defective Work not remedied;
- **.2** third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- **.3** failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- **.4** reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- **.5** damage to the Owner or a Separate Contractor;
- **.6** reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or

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.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

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§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

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§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- **.1** employees on the Work and other persons who may be affected thereby;

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.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and

.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed

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by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the

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procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

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The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect

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timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- **.1** Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- **.2** An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- **.3** Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- **.4** The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract

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Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- **.1** repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- **.2** fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- **.3** repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- **.4** otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- **.1** Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- **.2** Accept assignment of subcontracts pursuant to Section 5.4; and
- **.3** Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- **.1** that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- **.2** that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- **.1** cease operations as directed by the Owner in the notice;
- **.2** take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- **.3** except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work

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properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

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.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

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§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party

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provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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Exhibit #1

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General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)

«Visitor Information Center»
«920 North Mitchell Avenue, Hardin, Montana 59034»

THE OWNER:
(Name, legal status and address)

« City of Hardin »« »
« 406 North Cheyenne Avenue, Hardin, Montana 59034 »

THE ARCHITECT:
(Name, legal status and address)

«CTA Inc. -»«dba Cushing Terrell »
« PO Box 1439, Billings, Montana 59103 »

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15 CLAIMS AND DISPUTES

ADDITIONS AND DELETIONS: The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or

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relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

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§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as

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the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

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§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

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§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

.1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

.2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and

.3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and

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similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will

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specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

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§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

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§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in

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number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- **.1** assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- **.2** assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

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§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

.1 The change in the Work;
.2 The amount of the adjustment, if any, in the Contract Sum; and
.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
.2 Unit prices stated in the Contract Documents or subsequently agreed upon;
.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
.4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;

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.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and

.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

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§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

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§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- **.1** defective Work not remedied;
- **.2** third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- **.3** failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- **.4** reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- **.5** damage to the Owner or a Separate Contractor;
- **.6** reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or

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.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

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§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

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§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- **.1** employees on the Work and other persons who may be affected thereby;

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.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and

.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed

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by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the

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procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

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The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect

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timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- **.1** Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- **.2** An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- **.3** Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- **.4** The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract

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Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- **.1** repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- **.2** fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- **.3** repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- **.4** otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- **.1** Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- **.2** Accept assignment of subcontracts pursuant to Section 5.4; and
- **.3** Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- **.1** that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- **.2** that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- **.1** cease operations as directed by the Owner in the notice;
- **.2** take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- **.3** except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work

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properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

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.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

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§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party

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provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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Exhibit #1

SUPPLEMENTARY GENERAL CONDITIONS

SUPPLEMENTARY GENERAL CONDITIONS. The following supplements, modifies, changes, deletes from or adds to the "General Conditions of the Contract for Construction," AIA Document A201, 2017 Edition. Where a portion of the General Conditions is modified or deleted by these Supplementary General Conditions, the unaltered portions of the General Conditions shall remain in effect.

A. ARTICLE 3; CONTRACTOR

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

Add the following to Subparagraph 3.2.1:

Prior to execution of the Agreement, the Contractor and each Subcontractor have evaluated and satisfied themselves as to the conditions and limitations under which the Work is to be performed, including, without limitation; (1) the location, condition, layout and nature of the Project Site and surrounding areas; (2) generally prevailing climatic conditions; (3) anticipated labor supply and costs; (4) availability and cost of materials, tools, and equipment; and (5) other similar issues. The Owner assumes no responsibility or liability for the physical condition or safety of the Project Site or any improvements located at the Project Site. The Contractor shall be solely responsible for providing a safe place for performance of the Work. The Owner shall not be required to make any adjustment in either the Contract Sum or the Contract Time in connection with any failure by the Contractor or Subcontractor to have complied with the requirements of this Section 3.2.1.

3.4 LABOR AND MATERIALS

Add the following to Subparagraph 3.4.2:

If the Contractor desires to submit an alternate product or method in lieu of what has been specified or shown in the Contract Documents, the following provisions apply:

The Contractor must submit to the Architect and the Owner (1) a full explanation of the proposed substitution and submittal of all supporting data, including technical information, catalogue cuts, warranties, test results, installation instructions, operating procedures, and other similar information necessary for complete evaluation of the substitution; (2) a written explanation of the reasons the substitution is advantageous and necessary, including the benefits to the Owner and the Work, in the event the substitution is acceptable; (3) the adjustment, if any, in the Contract Sum, in the event the substitution is acceptable; (4) the adjustment, if any, in the time of completion of the Contract and the construction schedule, in the event the substitution is acceptable; (5) an affidavit stating that (a) the proposed substitution conforms to and meets all the requirements of the pertinent specifications and the requirements shown in the drawings, and (b) the Contractor accepts the warranty and correction obligations in connection with the proposed substitution as if originally specified by the Architect. The proposals for substitutions shall be submitted in triplicate to the Architect and sufficient time to allow the Architect no less than ten (10) working days for review. No substitutions will be considered or allowed without the Contractor submittal of complete substantiating data and information as stated in this Section 3.4.2.

Add the following Subparagraphs 3.4.4, 3.4.5 and 3.4.6 to Paragraph 3.4:

3.4.4 Not later than 14 days from the Contract Date, the Contractor shall provide a list showing the name of the manufacturer proposed to be used for each of the products identified in the General Requirements of the Specifications (Division 1) and the name of the installing Subcontractor.

3.4.5 The Architect will promptly reply in writing to the Contractor stating whether the Owner or the Architect, after due investigation, has reasonable objection to any such proposal. If adequate data on any proposed manufacturer or installer is not available, the Architect may state that action will be deferred until the Contractor provides further data. Failure of the Owner or Architect to reply promptly shall constitute notice of no reasonable objection. Failure to object to a manufacturer shall not constitute a waiver of any of the requirements of the Contract Documents, and all products furnished by the listed manufacturer must conform to such requirements.

3.4.6 In any Contract let for state work, the Contractor shall pay the standard prevailing rate of wages, including fringe benefits for health and welfare and pension contributions and travel allowance provisions in effect and applicable to the county or locality in which the work is being performed (18-2-403, MCA).

Add the following Clauses to Subparagraph 3.4.6:

3.4.6.1 The State of Montana - Department of Labor and Industry has established the standard prevailing rate of wages and a copy of which, entitled Wage Rate Determination, is bound herein.

3.4.6.2 The Contractor shall classify all workers in the Project in accordance with the Wage Rate Determination. In the event the Contractor is unable to classify a worker in accordance with these rates, he shall contact the State of Montana Employment Relations Division, Department of Labor and Industry, PO Box 1728, Helena, Montana 59624, or phone (406) 444-5600, for a determination of the prevailing wage rate to be paid that particular worker. The Contractor shall be responsible for obtaining wage rates for all workers on the Project prior to their performing any work on the Project.

3.4.7 The Contractor shall defend, indemnify and hold harmless the Owner and the Architect from and against any and all claims, demands, suits, complaints, damages and/or causes of action, including reasonable attorney's fees and costs, arising from or relating to any allegation that the Contractor failed to pay prevailing wages or paid the wrong prevailing wages.

3.5 WARRANTY

Add the following to Subparagraph 3.5.1:

Generally all Work shall be warranted for a period of one year upon the acceptance of Work at substantial completion inspection. Deficiency items established by that inspection will only begin their warranty period after they have been corrected, reexamined, and approved. The date of the approval sets the first day of the warranty period.

3.7.4 CONCEALED OR UNKNOWN CONDITIONS

Delete in its entirety and substitute the following:

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical

conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than five (5) days after first observance of the conditions. The Architect, or another consultant retained by the Owner, will promptly investigate such conditions and, if the Architect or other consultant determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect or other consultant determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect or other consultant shall promptly notify the Owner and Contractor, stating the reasons and the Contractor shall proceed to complete the Work under this Contract without any adjustment to the Contract Sum or Contract Time. Any claim resulting from the recommendation of the Architect or the Owner's consultant, or from the negotiations for a change in the Contract Time and/or the Contract Sum, must be made in accordance with Article 15.

3.9 SUPERINTENDENT

3.9.1 Add the following to subparagraph 3.9.1; the superintendent in attendance at the Project site during the progress of the work shall remain at the site and on the Project until Final Completion.

3.15 CLEANING UP

Add the following Subparagraphs 3.15.3:

3.15.3 The Contractor shall be responsible for the protection of the Work. Prior to any inspection for Substantial Completion, the Contractor shall clean exterior and interior surfaces exposed to view; remove temporary labels, stains, putty, soil, paint and foreign substances from all surfaces, including glass and painted surfaces; polish transparent and glossy surfaces; clean equipment and fixtures to a sanitary condition; replace air filters in mechanical equipment; clean roofs, gutters, and downspouts; remove obstructions and flush debris from drainage systems; clean site; sweep paved areas and rake clean other surfaces; remove trash and surplus materials from the site; clean and polish all floors; clean and polish all hardware; and repair all Work damaged during cleaning.

3.18 INDEMNIFICATION

Delete Subparagraph 3.18.1 in its entirety and substitute the following:

The Contractor agrees, to the fullest extent permitted by law, to defend and indemnify the Owner and the Architect from and against any and all claims, damages, causes of action, liability, and costs, including reasonable attorney's fees and costs, arising from or in any way related to the performance of the Work under this Contract, or alleged to relate in any way to the Work performed under this Contract. This indemnity obligation includes any claim, cause of action, demand, liability or cost arising from or in any way related to any act or omission of any Subcontractor hired by the Contractor.

Add Subparagraphs 3.18.3, 3.18.4, and 3.18.5:

3.18.3 The Contractor's indemnity obligations under this Contract shall also specifically include, without limitation, all fines, penalties, damages, liabilities, costs, expenses (including

reasonable attorney's fees) and punitive damages (if any) arising out of, or in connection with, any (1) violation of or failure to comply with any law, statute, ordinance, rule, regulation, code, or requirement of a public authority; (2) means, methods, procedures, techniques, or sequences of execution or performance of the Work; and (3) failure to secure and pay for permits, fees, approvals, licenses and inspections as required under the Contract Documents, or any violation of any permit or other approval of a public authority applicable to the Work.

3.18.4 The Contractor shall defend and indemnify and hold harmless the Owner and the Architect from and against any costs and expenses, including reasonable attorney's fees, incurred by the Owner and/or the Architect and enforcing any of the Contractor's obligations under this Paragraph 3.18.

3.18.5 The provisions of section 3.18 in its entirety shall survive the completion, termination or expiration of this Contract.

B. ARTICLE 4; ARCHITECT

4.1 GENERAL

4.1.2 Delete in its entirety and substitute the following:

Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, and Architect.

4.2 ADMINISTRATION OF THE CONTRACT

4.2.1 Delete in its entirety and substitute the following:

The Architect will provide administration of the Contract as described in the Contract Documents and during construction (if retained by the Owner to provide such services) until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents or as set forth in the agreement between the Owner and the Architect.

4.2.2 Add the following to Subparagraph 4.2.2; However, nothing in this Article §4.2 shall impose any liability on the Architect for failure to identify or discover deficiencies in the Contractor's Work. The Contractor remains solely and exclusively responsible for properly constructing the Work.

4.2.6 Delete in its entirety and substitute the following:

The Architect has authority to reject Work that does not conform to the Contract Documents only if authorized by the Owner and only if actually discovered by the Architect. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

4.2.9 Replace "inspections" with "reviews".

C. ARTICLE 5; SUBCONTRACTORS

Add Section 5.5 and Subparagraph 5.5.1:

5.5 NOTICE OF SUBCONTRACTOR DEFAULT

5.5.1 Contractor shall promptly notify Owner and Architect of any material defaults by any Subcontractor or Sub-subcontractor. Notwithstanding any provision contained in Article 5 to the contrary, it is hereby acknowledged and agreed that Owner has in no way agreed, expressly or implicitly, nor will Owner agree, to allow any Subcontractor, Sub- subcontractor or other materialman or worker employed by Contractor the right to obtain a personal judgment or to create a mechanic's or materialman's lien against Owner for the amounts claimed to be owed by the Contractor to those parties.

D. ARTICLE 7; CHANGES IN THE WORK

7.1 GENERAL

7.1.3 Add the following to Subparagraph 7.1.3; Except as permitted in Section 7.3, a change in the Contract Sum or Contract Time shall be accomplished only by Change Order. Accordingly, no course of conduct or dealings between the parties shall be the basis for any claim to an increase in any amounts due under the Contract or a change in any time period provided or required by the Contract. No claim that the Owner has been unjustly enriched by any alteration of or addition to the Work shall be the basis of any claim to an increase for any amounts due under the Contract Documents or a change in any time period provided in the Contract Documents.

7.2 CHANGE ORDER

Add Subparagraph 7.2.3:

7.2.3. A Change Order is a full and final resolution of all claims or impacts associated with the change or relating to the Work, including, but not limited to, all direct and indirect costs and consequential damages associated with such change and any and all adjustments to or impacts on the Contract Sum, the Contract Time, or any Construction Schedule.

E. ARTICLE 8; TIME

8.3 DELAYS AND EXTENSION OF TIME

8.3.1 Delete the following from Subparagraph 8.3.1 "shall be extended for such reasonable time as the Architect may determine." Add the following to Subparagraph 8.3.1 "may be extended by a Change Order if the Owner and the Contractor agree to a Change Order."

8.3.3 Delete in its entirety and substitute the following:

Notwithstanding any provision to the contrary in the Contract Documents, an extension of Contract Time shall be the Contractor's sole remedy for any delay in the Work, regardless of cause, including claims for loss of productivity, extended overhead, or other similar claims. In no event shall the Contractor be entitled to any compensation or any damages in connection with any delay, including, without limitation, consequential damages, lost opportunity costs, impact damages, or other similar costs. The Owner's exercise of any rights under the Contract Documents, regardless of the extent or

frequency of the Owner's exercise of such rights, shall not be construed as intentional interference with a Contractor's performance of the Work.

Add the following Subparagraph 8.3.4 to Paragraph 8.3:

8.3.4 Time extension for unusually severe weather.

Add the following Clauses 8.3.4.1, 8.3.4.2, 8.3.4.3, and 8.3.4.4 to Subparagraph 8.3.4:

8.3.4.1 This provision specifies the procedure for the determination of time extensions for unusually severe weather. The amount of time provided in the Contract to complete the work takes into consideration a certain number of anticipated adverse weather days. No weather related time extensions will be allowed unless the actual number of adverse weather days in a given month exceeds the anticipated number. The listing below defines the monthly anticipated adverse weather for the Contract period.

MONTHLY ANTICIPATED ADVERSE WEATHER CALENDAR DAYS

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
23	15	12	5	4	3	0	1	1	4	12	19

8.3.4.2 The above schedule of anticipated adverse weather will constitute the baseline for monthly (or portion thereof) weather time evaluations. Upon acknowledgment of the notice to proceed and continuing throughout the Contract on a monthly basis, actual adverse weather days will be recorded on a calendar day basis (including weekends and holidays) and compared to the monthly anticipated adverse weather listed above. For purposes of this provision, the term actual adverse weather days shall include days impacted by actual adverse weather.

8.3.4.3 The number of actual adverse weather days shall be calculated chronologically from the first to the last day in each month. Once the number of anticipated adverse weather days have been incurred, the Architect will examine any subsequently occurring adverse weather days to determine whether Contractor is entitled to a time extension. In order for a time extension to be considered, these subsequently occurring adverse weather days must prevent work for 50 percent or more of the Contractor's workday and delay work critical to the timely completion of the Project. The Architect will convert any delays meeting the above requirements to calendar days and issue a modification in accordance with the Contract provisions.

8.3.4.4 An adverse weather day is defined as a day where one or more of the following conditions occur:

.1 Precipitation is equal to or greater than three quarters inch (0.75) per day. Low surface temperature for the day is equal to or less than 10 degrees F. Surface winds are equal to or greater than 39 miles per hour.

Add the following Subparagraph 8.3.5 to Paragraph 8.3:

8.3.5 The Architect will monitor construction activities and the Project Schedule to verify that the Contractor is fulfilling his time commitments. If the Contractor is not achieving the Project Schedule for any reason, other than as indicated in Paragraph 8.3, then the Contractor shall be required to provide any additional labor, material, equipment and/or extended work days and work weeks, at no additional cost to the Owner, to regain conformance with the Project Schedule. The Project Schedule shall be maintained.

D. ARTICLE 9; PAYMENTS AND COMPLETION

9.3 APPLICATIONS FOR PAYMENT

Add the following Clauses 9.3.1.3 to Subparagraph 9.3.1:

9.3.1.3 Until the work is 100 percent complete, the Owner will pay **95 percent** of the amount due to the Contractor on account of progress payments. Retainage will only be released upon final acceptance of each portion of the work for which a separate price is stated in the construction contract along with the Contractor submitting a completed Consent of Surety.

9.3.2 Delete in its entirety and substitute the following:

Unless otherwise provided in the Contract Documents, the Owner shall make payments on account of the Contract based on the value of Work estimated by the Contractor in the schedule of values and as itemized in the submitted Application for Payment to have been completed on or about the last day of each calendar month and to be acceptable. Estimated quantities shall be considered only as approximate and shall be subject to the Architect's adjustment and correction. Payments will also be made on account of materials or equipment not incorporated in the Work, but delivered and suitably stored, protected and insured both at the site or at some other location agreed upon in writing (generally, unless otherwise approved, within 25 miles of the site and within the same State). Payments for materials or equipment stored either on or off the site shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the Owner to establish the Owner's title to such materials or equipment or otherwise protect the Owner's interest, including applicable insurance and transportation for those materials and equipment stored off the site.

Add the following Subparagraphs 9.3.4, 9.3.5, 9.3.6, and 9.3.7:

9.3.4 By signing each Application for Payment, the Contractor stipulates and certifies to the following: that the information presented is true, correct, accurate and complete; that the Contractor has made the necessary detailed examinations, audits and arithmetic verifications; that the submitted Work has been completed to the extent represented in the Applications for Payment; that the materials and supplies identified in the Applications for Payment have been purchased, paid for and received; that the subcontractors have been paid as identified in the Applications for Payment or that Contractor has been invoiced for same; that he has made the necessary on-site inspections to confirm the accuracy of the Applications for Payment; that there are no known mechanics' or materialmens' liens outstanding at the date of this requisition; all due and payable bills with respect to the Work have been paid to date or are included in the amount requested in the current application; that, except for such bills not paid but so included, there is no known basis for the filing of any construction or other liens on the Work or the Owner's Property; that the Payment Application includes only Work self-performed by Contractor or for which Contractor has been invoiced; and that releases from all Subcontractors and materialmen have been obtained in such form as to constitute an effective release of lien under the laws of the State of Montana covering all Work performed and for which payment has been made by the Owner to the Contractor.

9.3.5 The Contractor agrees to indemnify, defend and hold harmless the Owner, at the Contractor's sole cost and expense, from and against any actions, lawsuits, or proceedings brought against the Owner as a result of liens filed against the site of the Project or otherwise. This indemnity obligation includes reasonable attorney's fees and costs. If a construction lien is asserted or

perfected against the Project or the Owner relating to the Work performed under this Contract, the Contractor must take necessary steps to secure release of the lien or have the lien bonded off within thirty days after the Owner receives notice of the construction lien. Neither securing the lien release nor posting of a bond shall relieve the Contractor of any duties and responsibilities under the Contract. The cost of any premiums associated with such bonds shall be the sole responsibility of the Contractor and shall not be part of or cause an increase in the Contract Sum.

9.3.6 If the Contractor fails to secure release of or bond off a construction lien, the Owner has the right, but not the obligation, to settle any such claim but direct payment to the claimant if the Owner determines, in its sole discretion, that such payment is the most economical or advantageous method of settling the dispute. The Contractor shall promptly reimburse the Owner for such payment. The Owner also may deduct the amount of any such payment from the Contract Sum.

9.3.7 If a Subcontractor or Supplier provides evidence to the Owner that the Subcontractor or Supplier has not received payment from the Contractor, the Owner may, in its sole discretion, make payment directly to the Subcontractor or Supplier under any terms agreed upon by the Owner and the Subcontractor or Suppler. The Owner also may, but is not required to, issue a joint check to the Contractor and the Subcontractor or Supplier

9.4 CERTIFICATES FOR PAYMENT

9.4.1 Delete in its entirety and substitute the following:

The Architect will, within a reasonable time after receipt of the Contractor's Application for Payment, or as otherwise agreed with the Owner, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

9.4.2 Delete in its entirety and substitute the following:

The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work in general is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum. Nothing in this Article 9 shall be deemed to create any duty for the Architect or impose any liability on the Architect for deficiencies or defects in

the Work performed by the Contractor or any subcontractor.

E. ARTICLE 10; PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECATIONS AND PROGRAMS

Add the following to Paragraph 10.1; The Contractor's employees, agents, Sub-contractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, shall not perform any service for Owner while under the influence of any amount of alcohol or any controlled substance, or use, possess, distribute, or sell alcoholic beverages while on Owner's premises. No person shall use, possess, distribute, or sell illicit or unprescribed controlled drugs or drug paraphernalia; misuse legitimate prescription drugs; or act in contravention of warnings on medications while performing the Work or on Owner's premises.

10.2 SAFETY OF PERSONS AND PROPERTY

10.2.4 Add the following to Subparagraph 10.2.4; If the Contractor believes use or storage of explosives or other hazardous materials or equipment are necessary or required, the Contractor must detain prior written permission from the Owner before using or storing explosives or other hazardous materials on the Owner's property.

10.3 HAZARDOUS MATERIALS

Add the following Clause 10.3.1.1 to Subparagraph 10.3.1:

10.3.1.1 Asbestos Free Facility. It is the Owner's and the Architect's intent to design, specify and approve only asbestos free materials and products for this Project. Any Contractor, Subcontractor, Material Supplier or Manufacturer intending to supply products or services for this Project shall notify the Architect in writing, within thirty (30) days after the Notice to Proceed has been issued, or within ten (10) days of discovery, if he is aware of, or becomes aware of, any Asbestos Containing Materials or Products intended for installation in this Project.

When possible, a proposed Asbestos-Free substitute for any Asbestos containing Material shall also be submitted with the required written notification.

F. ARTICLE 11; INSURANCE AND BONDS

11.1 CONTRACTOR'S INSURANCE AND BONDS

Add the following Clause 11.1.2.1 to Subparagraph 11.1.2:

11.1.2.1 The Contractor shall deliver the required bonds to the Owner not later than three days following the date the Agreement is entered into, or if the Work is to be commenced prior thereto in response to a letter of intent, the Contractor shall, prior to the commencement of the Work, submit evidence satisfactory to the Owner that such bonds will be furnished.

Add the following Clause 11.1.2.2 to Subparagraph 11.1.2:

11.1.2.2 The Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.

G. ARTICLE 13; MISCELLANEOUS PROVISIONS

13.4 TESTS AND INSPECTIONS

13.4.5 Add the following to Subparagraph 13.4.5; so long as the Architect is given reasonable notice of the test or inspection.

SUPPLEMENTARY GENERAL CONDITIONS

SUPPLEMENTARY GENERAL CONDITIONS. The following supplements, modifies, changes, deletes from or adds to the "General Conditions of the Contract for Construction," AIA Document A201, 2017 Edition. Where a portion of the General Conditions is modified or deleted by these Supplementary General Conditions, the unaltered portions of the General Conditions shall remain in effect.

A. ARTICLE 3; CONTRACTOR

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

Add the following to Subparagraph 3.2.1:

Prior to execution of the Agreement, the Contractor and each Subcontractor have evaluated and satisfied themselves as to the conditions and limitations under which the Work is to be performed, including, without limitation; (1) the location, condition, layout and nature of the Project Site and surrounding areas; (2) generally prevailing climatic conditions; (3) anticipated labor supply and costs; (4) availability and cost of materials, tools, and equipment; and (5) other similar issues. The Owner assumes no responsibility or liability for the physical condition or safety of the Project Site or any improvements located at the Project Site. The Contractor shall be solely responsible for providing a safe place for performance of the Work. The Owner shall not be required to make any adjustment in either the Contract Sum or the Contract Time in connection with any failure by the Contractor or Subcontractor to have complied with the requirements of this Section 3.2.1.

3.4 LABOR AND MATERIALS

Add the following to Subparagraph 3.4.2:

If the Contractor desires to submit an alternate product or method in lieu of what has been specified or shown in the Contract Documents, the following provisions apply:

The Contractor must submit to the Architect and the Owner (1) a full explanation of the proposed substitution and submittal of all supporting data, including technical information, catalogue cuts, warranties, test results, installation instructions, operating procedures, and other similar information necessary for complete evaluation of the substitution; (2) a written explanation of the reasons the substitution is advantageous and necessary, including the benefits to the Owner and the Work, in the event the substitution is acceptable; (3) the adjustment, if any, in the Contract Sum, in the event the substitution is acceptable; (4) the adjustment, if any, in the time of completion of the Contract and the construction schedule, in the event the substitution is acceptable; (5) an affidavit stating that (a) the proposed substitution conforms to and meets all the requirements of the pertinent specifications and the requirements shown in the drawings, and (b) the Contractor accepts the warranty and correction obligations in connection with the proposed substitution as if originally specified by the Architect. The proposals for substitutions shall be submitted in triplicate to the Architect and sufficient time to allow the Architect no less than ten (10) working days for review. No substitutions will be considered or allowed without the Contractor submittal of complete substantiating data and information as stated in this Section 3.4.2.

Add the following Subparagraphs 3.4.4, 3.4.5 and 3.4.6 to Paragraph 3.4:

3.4.4 Not later than 14 days from the Contract Date, the Contractor shall provide a list showing the name of the manufacturer proposed to be used for each of the products identified in the General Requirements of the Specifications (Division 1) and the name of the installing Subcontractor.

3.4.5 The Architect will promptly reply in writing to the Contractor stating whether the Owner or the Architect, after due investigation, has reasonable objection to any such proposal. If adequate data on any proposed manufacturer or installer is not available, the Architect may state that action will be deferred until the Contractor provides further data. Failure of the Owner or Architect to reply promptly shall constitute notice of no reasonable objection. Failure to object to a manufacturer shall not constitute a waiver of any of the requirements of the Contract Documents, and all products furnished by the listed manufacturer must conform to such requirements.

3.4.6 In any Contract let for state work, the Contractor shall pay the standard prevailing rate of wages, including fringe benefits for health and welfare and pension contributions and travel allowance provisions in effect and applicable to the county or locality in which the work is being performed (18-2-403, MCA).

Add the following Clauses to Subparagraph 3.4.6:

3.4.6.1 The State of Montana - Department of Labor and Industry has established the standard prevailing rate of wages and a copy of which, entitled Wage Rate Determination, is bound herein.

3.4.6.2 The Contractor shall classify all workers in the Project in accordance with the Wage Rate Determination. In the event the Contractor is unable to classify a worker in accordance with these rates, he shall contact the State of Montana Employment Relations Division, Department of Labor and Industry, PO Box 1728, Helena, Montana 59624, or phone (406) 444-5600, for a determination of the prevailing wage rate to be paid that particular worker. The Contractor shall be responsible for obtaining wage rates for all workers on the Project prior to their performing any work on the Project.

3.4.7 The Contractor shall defend, indemnify and hold harmless the Owner and the Architect from and against any and all claims, demands, suits, complaints, damages and/or causes of action, including reasonable attorney's fees and costs, arising from or relating to any allegation that the Contractor failed to pay prevailing wages or paid the wrong prevailing wages.

3.5 WARRANTY

Add the following to Subparagraph 3.5.1:

Generally all Work shall be warranted for a period of one year upon the acceptance of Work at substantial completion inspection. Deficiency items established by that inspection will only begin their warranty period after they have been corrected, reexamined, and approved. The date of the approval sets the first day of the warranty period.

3.7.4 CONCEALED OR UNKNOWN CONDITIONS

Delete in its entirety and substitute the following:

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical

conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than five (5) days after first observance of the conditions. The Architect, or another consultant retained by the Owner, will promptly investigate such conditions and, if the Architect or other consultant determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect or other consultant determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect or other consultant shall promptly notify the Owner and Contractor, stating the reasons and the Contractor shall proceed to complete the Work under this Contract without any adjustment to the Contract Sum or Contract Time. Any claim resulting from the recommendation of the Architect or the Owner's consultant, or from the negotiations for a change in the Contract Time and/or the Contract Sum, must be made in accordance with Article 15.

3.9 SUPERINTENDENT

3.9.1 Add the following to subparagraph 3.9.1; the superintendent in attendance at the Project site during the progress of the work shall remain at the site and on the Project until Final Completion.

3.15 CLEANING UP

Add the following Subparagraphs 3.15.3:

3.15.3 The Contractor shall be responsible for the protection of the Work. Prior to any inspection for Substantial Completion, the Contractor shall clean exterior and interior surfaces exposed to view; remove temporary labels, stains, putty, soil, paint and foreign substances from all surfaces, including glass and painted surfaces; polish transparent and glossy surfaces; clean equipment and fixtures to a sanitary condition; replace air filters in mechanical equipment; clean roofs, gutters, and downspouts; remove obstructions and flush debris from drainage systems; clean site; sweep paved areas and rake clean other surfaces; remove trash and surplus materials from the site; clean and polish all floors; clean and polish all hardware; and repair all Work damaged during cleaning.

3.18 INDEMNIFICATION

Delete Subparagraph 3.18.1 in its entirety and substitute the following:

The Contractor agrees, to the fullest extent permitted by law, to defend and indemnify the Owner and the Architect from and against any and all claims, damages, causes of action, liability, and costs, including reasonable attorney's fees and costs, arising from or in any way related to the performance of the Work under this Contract, or alleged to relate in any way to the Work performed under this Contract. This indemnity obligation includes any claim, cause of action, demand, liability or cost arising from or in any way related to any act or omission of any Subcontractor hired by the Contractor.

Add Subparagraphs 3.18.3, 3.18.4, and 3.18.5:

3.18.3 The Contractor's indemnity obligations under this Contract shall also specifically include, without limitation, all fines, penalties, damages, liabilities, costs, expenses (including

reasonable attorney's fees) and punitive damages (if any) arising out of, or in connection with, any (1) violation of or failure to comply with any law, statute, ordinance, rule, regulation, code, or requirement of a public authority; (2) means, methods, procedures, techniques, or sequences of execution or performance of the Work; and (3) failure to secure and pay for permits, fees, approvals, licenses and inspections as required under the Contract Documents, or any violation of any permit or other approval of a public authority applicable to the Work.

3.18.4 The Contractor shall defend and indemnify and hold harmless the Owner and the Architect from and against any costs and expenses, including reasonable attorney's fees, incurred by the Owner and/or the Architect and enforcing any of the Contractor's obligations under this Paragraph 3.18.

3.18.5 The provisions of section 3.18 in its entirety shall survive the completion, termination or expiration of this Contract.

B. ARTICLE 4; ARCHITECT

4.1 GENERAL

4.1.2 Delete in its entirety and substitute the following:

Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, and Architect.

4.2 ADMINISTRATION OF THE CONTRACT

4.2.1 Delete in its entirety and substitute the following:

The Architect will provide administration of the Contract as described in the Contract Documents and during construction (if retained by the Owner to provide such services) until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents or as set forth in the agreement between the Owner and the Architect.

4.2.2 Add the following to Subparagraph 4.2.2; However, nothing in this Article §4.2 shall impose any liability on the Architect for failure to identify or discover deficiencies in the Contractor's Work. The Contractor remains solely and exclusively responsible for properly constructing the Work.

4.2.6 Delete in its entirety and substitute the following:

The Architect has authority to reject Work that does not conform to the Contract Documents only if authorized by the Owner and only if actually discovered by the Architect. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

4.2.9 Replace "inspections" with "reviews".

C. ARTICLE 5; SUBCONTRACTORS

Add Section 5.5 and Subparagraph 5.5.1:

5.5 NOTICE OF SUBCONTRACTOR DEFAULT

5.5.1 Contractor shall promptly notify Owner and Architect of any material defaults by any Subcontractor or Sub-subcontractor. Notwithstanding any provision contained in Article 5 to the contrary, it is hereby acknowledged and agreed that Owner has in no way agreed, expressly or implicitly, nor will Owner agree, to allow any Subcontractor, Sub- subcontractor or other materialman or worker employed by Contractor the right to obtain a personal judgment or to create a mechanic's or materialman's lien against Owner for the amounts claimed to be owed by the Contractor to those parties.

D. ARTICLE 7; CHANGES IN THE WORK

7.1 GENERAL

7.1.3 Add the following to Subparagraph 7.1.3; Except as permitted in Section 7.3, a change in the Contract Sum or Contract Time shall be accomplished only by Change Order. Accordingly, no course of conduct or dealings between the parties shall be the basis for any claim to an increase in any amounts due under the Contract or a change in any time period provided or required by the Contract. No claim that the Owner has been unjustly enriched by any alteration of or addition to the Work shall be the basis of any claim to an increase for any amounts due under the Contract Documents or a change in any time period provided in the Contract Documents.

7.2 CHANGE ORDER

Add Subparagraph 7.2.3:

7.2.3. A Change Order is a full and final resolution of all claims or impacts associated with the change or relating to the Work, including, but not limited to, all direct and indirect costs and consequential damages associated with such change and any and all adjustments to or impacts on the Contract Sum, the Contract Time, or any Construction Schedule.

E. ARTICLE 8; TIME

8.3 DELAYS AND EXTENSION OF TIME

8.3.1 Delete the following from Subparagraph 8.3.1 "shall be extended for such reasonable time as the Architect may determine." Add the following to Subparagraph 8.3.1 "may be extended by a Change Order if the Owner and the Contractor agree to a Change Order."

8.3.3 Delete in its entirety and substitute the following:

Notwithstanding any provision to the contrary in the Contract Documents, an extension of Contract Time shall be the Contractor's sole remedy for any delay in the Work, regardless of cause, including claims for loss of productivity, extended overhead, or other similar claims. In no event shall the Contractor be entitled to any compensation or any damages in connection with any delay, including, without limitation, consequential damages, lost opportunity costs, impact damages, or other similar costs. The Owner's exercise of any rights under the Contract Documents, regardless of the extent or

frequency of the Owner's exercise of such rights, shall not be construed as intentional interference with a Contractor's performance of the Work.

Add the following Subparagraph 8.3.4 to Paragraph 8.3:

8.3.4 Time extension for unusually severe weather.

Add the following Clauses 8.3.4.1, 8.3.4.2, 8.3.4.3, and 8.3.4.4 to Subparagraph 8.3.4:

8.3.4.1 This provision specifies the procedure for the determination of time extensions for unusually severe weather. The amount of time provided in the Contract to complete the work takes into consideration a certain number of anticipated adverse weather days. No weather related time extensions will be allowed unless the actual number of adverse weather days in a given month exceeds the anticipated number. The listing below defines the monthly anticipated adverse weather for the Contract period.

MONTHLY ANTICIPATED ADVERSE WEATHER CALENDAR DAYS

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
23	15	12	5	4	3	0	1	1	4	12	19

8.3.4.2 The above schedule of anticipated adverse weather will constitute the baseline for monthly (or portion thereof) weather time evaluations. Upon acknowledgment of the notice to proceed and continuing throughout the Contract on a monthly basis, actual adverse weather days will be recorded on a calendar day basis (including weekends and holidays) and compared to the monthly anticipated adverse weather listed above. For purposes of this provision, the term actual adverse weather days shall include days impacted by actual adverse weather.

8.3.4.3 The number of actual adverse weather days shall be calculated chronologically from the first to the last day in each month. Once the number of anticipated adverse weather days have been incurred, the Architect will examine any subsequently occurring adverse weather days to determine whether Contractor is entitled to a time extension. In order for a time extension to be considered, these subsequently occurring adverse weather days must prevent work for 50 percent or more of the Contractor's workday and delay work critical to the timely completion of the Project. The Architect will convert any delays meeting the above requirements to calendar days and issue a modification in accordance with the Contract provisions.

8.3.4.4 An adverse weather day is defined as a day where one or more of the following conditions occur:

.1 Precipitation is equal to or greater than three quarters inch (0.75) per day. Low surface temperature for the day is equal to or less than 10 degrees F. Surface winds are equal to or greater than 39 miles per hour.

Add the following Subparagraph 8.3.5 to Paragraph 8.3:

8.3.5 The Architect will monitor construction activities and the Project Schedule to verify that the Contractor is fulfilling his time commitments. If the Contractor is not achieving the Project Schedule for any reason, other than as indicated in Paragraph 8.3, then the Contractor shall be required to provide any additional labor, material, equipment and/or extended work days and work weeks, at no additional cost to the Owner, to regain conformance with the Project Schedule. The Project Schedule shall be maintained.

D. ARTICLE 9; PAYMENTS AND COMPLETION

9.3 APPLICATIONS FOR PAYMENT

Add the following Clauses 9.3.1.3 to Subparagraph 9.3.1:

9.3.1.3 Until the work is 100 percent complete, the Owner will pay **95 percent** of the amount due to the Contractor on account of progress payments. Retainage will only be released upon final acceptance of each portion of the work for which a separate price is stated in the construction contract along with the Contractor submitting a completed Consent of Surety.

9.3.2 Delete in its entirety and substitute the following:

Unless otherwise provided in the Contract Documents, the Owner shall make payments on account of the Contract based on the value of Work estimated by the Contractor in the schedule of values and as itemized in the submitted Application for Payment to have been completed on or about the last day of each calendar month and to be acceptable. Estimated quantities shall be considered only as approximate and shall be subject to the Architect's adjustment and correction. Payments will also be made on account of materials or equipment not incorporated in the Work, but delivered and suitably stored, protected and insured both at the site or at some other location agreed upon in writing (generally, unless otherwise approved, within 25 miles of the site and within the same State). Payments for materials or equipment stored either on or off the site shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the Owner to establish the Owner's title to such materials or equipment or otherwise protect the Owner's interest, including applicable insurance and transportation for those materials and equipment stored off the site.

Add the following Subparagraphs 9.3.4, 9.3.5, 9.3.6, and 9.3.7:

9.3.4 By signing each Application for Payment, the Contractor stipulates and certifies to the following: that the information presented is true, correct, accurate and complete; that the Contractor has made the necessary detailed examinations, audits and arithmetic verifications; that the submitted Work has been completed to the extent represented in the Applications for Payment; that the materials and supplies identified in the Applications for Payment have been purchased, paid for and received; that the subcontractors have been paid as identified in the Applications for Payment or that Contractor has been invoiced for same; that he has made the necessary on-site inspections to confirm the accuracy of the Applications for Payment; that there are no known mechanics' or materialmens' liens outstanding at the date of this requisition; all due and payable bills with respect to the Work have been paid to date or are included in the amount requested in the current application; that, except for such bills not paid but so included, there is no known basis for the filing of any construction or other liens on the Work or the Owner's Property; that the Payment Application includes only Work self-performed by Contractor or for which Contractor has been invoiced; and that releases from all Subcontractors and materialmen have been obtained in such form as to constitute an effective release of lien under the laws of the State of Montana covering all Work performed and for which payment has been made by the Owner to the Contractor.

9.3.5 The Contractor agrees to indemnify, defend and hold harmless the Owner, at the Contractor's sole cost and expense, from and against any actions, lawsuits, or proceedings brought against the Owner as a result of liens filed against the site of the Project or otherwise. This indemnity obligation includes reasonable attorney's fees and costs. If a construction lien is asserted or

perfected against the Project or the Owner relating to the Work performed under this Contract, the Contractor must take necessary steps to secure release of the lien or have the lien bonded off within thirty days after the Owner receives notice of the construction lien. Neither securing the lien release nor posting of a bond shall relieve the Contractor of any duties and responsibilities under the Contract. The cost of any premiums associated with such bonds shall be the sole responsibility of the Contractor and shall not be part of or cause an increase in the Contract Sum.

9.3.6 If the Contractor fails to secure release of or bond off a construction lien, the Owner has the right, but not the obligation, to settle any such claim but direct payment to the claimant if the Owner determines, in its sole discretion, that such payment is the most economical or advantageous method of settling the dispute. The Contractor shall promptly reimburse the Owner for such payment. The Owner also may deduct the amount of any such payment from the Contract Sum.

9.3.7 If a Subcontractor or Supplier provides evidence to the Owner that the Subcontractor or Supplier has not received payment from the Contractor, the Owner may, in its sole discretion, make payment directly to the Subcontractor or Supplier under any terms agreed upon by the Owner and the Subcontractor or Suppler. The Owner also may, but is not required to, issue a joint check to the Contractor and the Subcontractor or Supplier

9.4 CERTIFICATES FOR PAYMENT

9.4.1 Delete in its entirety and substitute the following:

The Architect will, within a reasonable time after receipt of the Contractor's Application for Payment, or as otherwise agreed with the Owner, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

9.4.2 Delete in its entirety and substitute the following:

The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work in general is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum. Nothing in this Article 9 shall be deemed to create any duty for the Architect or impose any liability on the Architect for deficiencies or defects in

the Work performed by the Contractor or any subcontractor.

E. ARTICLE 10; PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECATIONS AND PROGRAMS

Add the following to Paragraph 10.1; The Contractor's employees, agents, Sub-contractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, shall not perform any service for Owner while under the influence of any amount of alcohol or any controlled substance, or use, possess, distribute, or sell alcoholic beverages while on Owner's premises. No person shall use, possess, distribute, or sell illicit or unprescribed controlled drugs or drug paraphernalia; misuse legitimate prescription drugs; or act in contravention of warnings on medications while performing the Work or on Owner's premises.

10.2 SAFETY OF PERSONS AND PROPERTY

10.2.4 Add the following to Subparagraph 10.2.4; If the Contractor believes use or storage of explosives or other hazardous materials or equipment are necessary or required, the Contractor must detain prior written permission from the Owner before using or storing explosives or other hazardous materials on the Owner's property.

10.3 HAZARDOUS MATERIALS

Add the following Clause 10.3.1.1 to Subparagraph 10.3.1:

10.3.1.1 Asbestos Free Facility. It is the Owner's and the Architect's intent to design, specify and approve only asbestos free materials and products for this Project. Any Contractor, Subcontractor, Material Supplier or Manufacturer intending to supply products or services for this Project shall notify the Architect in writing, within thirty (30) days after the Notice to Proceed has been issued, or within ten (10) days of discovery, if he is aware of, or becomes aware of, any Asbestos Containing Materials or Products intended for installation in this Project.

When possible, a proposed Asbestos-Free substitute for any Asbestos containing Material shall also be submitted with the required written notification.

F. ARTICLE 11; INSURANCE AND BONDS

11.1 CONTRACTOR'S INSURANCE AND BONDS

Add the following Clause 11.1.2.1 to Subparagraph 11.1.2:

11.1.2.1 The Contractor shall deliver the required bonds to the Owner not later than three days following the date the Agreement is entered into, or if the Work is to be commenced prior thereto in response to a letter of intent, the Contractor shall, prior to the commencement of the Work, submit evidence satisfactory to the Owner that such bonds will be furnished.

Add the following Clause 11.1.2.2 to Subparagraph 11.1.2:

11.1.2.2 The Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.

G. ARTICLE 13; MISCELLANEOUS PROVISIONS

13.4 TESTS AND INSPECTIONS

13.4.5 Add the following to Subparagraph 13.4.5; so long as the Architect is given reasonable notice of the test or inspection.

Position 5

RUS BULLETIN 1780-27

APPROVED
OMB. No. 0572-0121

LOAN RESOLUTION
(Public Bodies)

A RESOLUTION OF THE _____

OF THE **Hardin, City of**

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS

Water and Wastewater Operations

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the **Hardin, City of**
(Public Body)

(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of

Two Million Five Hundred Sixty-Two Thousand & 00 100

pursuant to the provisions of **MCA 7-2-4101**; and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning. financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of $10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legal ly permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0121. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short lived assets.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. To accept a grant in an amount not to exceed $ **2199000**

    under the terms offered by the Government; that the **Mayor**

    and _____ of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

The vote was: Yeas _____ Nays _____ Absent _____

IN WITNESS WHEREOF, the _____ of the

Hardin, City of has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this _____ ; _____ day of _____

_____

(SEAL) By _____

Riley Ramsey

Attest: Title **Mayor**

_____

Title _____

CERTIFICATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as _____ of the **Hardin, City of** _____

hereby certify that the_____of such Association is composed of

_____ members, of whom , _____ constituting a quorum, were present at a meeting thereof duly called and

held on the _____ day of _____ ; and that the foregoing resolution was adopted at such meeting

by the vote shown above, I further certify that as of_____ ,
the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been rescinded or amended in any way.

Dated, this_____ day of _____

_____

Title _____

911iNET
1310 9TH AVE PO BOX #28
Phenix City, AL 36868 United States
squaresales@911inet.com | (888) 545-6651

Invoice #003206-R-0004

Issue date
Feb 5, 2026

Yearly Service

Thank you for choosing 911iNET

Customer
Drew Lehr
City of Hardin, Montana
Police Department
cityfinance@hardinmt.com
(406) 665-9293
415 N Center, Suite B
Hardin, MT 59034

Invoice Details
PDF created February 25, 2026
$55,000.00

Payment
Due April 10, 2026
$55,000.00

Recurring
Repeats yearly
Repeats indefinitely

Items	Quantity	Price	Amount
911iNET Yearly Services (April 10, 2026 - April 9, 2027) *12 month service agreement per signed contract between the City of Hardin, Montana and 911iNET, LLC dated April 10, 2026*	1	$55,000.00	$55,000.00
Subtotal			$55,000.00

Total Due

$55,000.00

Pay online

To pay your invoice go to https://squareup.com/u/EK8c6WMt
Or open the camera on your mobile device and place the QR code in the camera's view.

SERVICE CONTRACT

This Service Contract made April 10, 2026, is by and between:

Service Provider: 911INET LLC, with a mailing address of 1803 Crawford Rd, Phenix City, Alabama 36867,

Client: City of Hardin, Montana with a mailing address of 406 N. Cheyenne, Hardin, Montana 59034.

Service Provider and Client are each referred to herein as a "Party" and, collectively, as the "Parties."

I. Term

The term of this Agreement shall commence on April 10, 2026, and terminate on April 9, 2027.

This agreement may be extended another four years from this first agreement. The 2nd, 3rd, 4th, and 5th year shall have a cost of 55,000 for maintenance replacement and support of the radio system.

II. The Service

Push-to-talk over cellular (PoC) is a service option for a cellular phone network that enables subscribers to use a PoC as a walkie talkie with unlimited range. A typical push-to-talk connection connects almost instantly. A significant advantage of PTT is the ability for a single person to reach an active talk group with a single button press; users need not make several telephone calls to coordinate with a group. Push-to-talk cellular calls similarly provide half-duplex communications while one person transmits, the other(s) receive. This combines the operational advantages of PTT with the interference resistance and other virtues of mobile phones. 24 Hour Dispatch services for Hardin Police Department with all support needed for Emergency and Non-Emergency responses.

III. Payment Amount

The Client agrees to pay the Service Provider $55,000.00 for the Service performed under this Agreement.

IV. Payment Method

The Client shall pay the Payment Amount: When Invoiced.

911INET Representative: _____

Date: _____

City of Hardin Representative: _____

Date: _____

911INET
1803 Crawford Rd, Phenix City Alabama 36867
888-545-6651, www.911inet.com

Feb 9, 2026

City of Hardin

To whom this may concern. I am writing to let you know I was charged incorrectly for my business license from 2022-2025. To which I paid $100 per year. I should have been charged $50 a year. We were charged as a "Pawn Shop" loaning money category. However we are a retail shop only and do not possess a pawning license.

Please refund Buffalo Tipi Trading Post $200.

Thank you for your consideration.

Sincerely

Ken Woody

Ken Woody
Buffalo Tipi Trading Post
PO Box 186
Hardin, MT 59034
406-679-1439

AMENDMENT NO. 32

CITY OF HARDIN LANDFILL
ENGINEERING CONSULTING SERVICES

The Original Consultant Agreement for Professional Services ("Agreement") between the City of Hardin, ("Owner") and Barry Damschen Consulting, LLC ("Consultant") for the period of January 1, 2003 through December 31, 2003 shall be amended to provide the same consulting services for the period of January 1, 2026 through December 31, 2026.

FEE

The Consultant shall conduct the work for the Lump Sum Fee of $7,800.00. The Consultant shall invoice the Owner one fourth of the total fee on a quarterly basis.

This Owner and Consultant hereby agree to this Amendment.

City of Hardin, Montana

_____
Mayor

_____
Attest

_____
Date

Barry Damschen Consulting, LLC

Barry E. Damschen, P.E.
Owner

2-23-26
Date

Contractor's Application for Payment

Owner:	City of Hardin	**Owner's Project No.:**	C301316
Engineer:	HDR Engineering, Inc.	**Engineer's Project No.:**	10332175
Contractor:	Northcon, Inc.	**Contractor's Project No.:**	HAY502
Project:	Hardin WWTP Upgrades		
Contract:	Wastewater Treatment Plant Upgrades		
Application No.:	8	**Application Date:**	2/25/2026
Application Period:	**From** 2/1/2026	**to**	2/28/2026

1. Original Contract Price			$ 13,385,736.00
2. Net change by Change Orders			$ 524,800.00
3. Current Contract Price (Line 1 + Line 2)			$ 13,910,536.00
4. Total Work completed and materials stored to date (Sum of Column G Lump Sum Total and Column J Unit Price Total)			$ 3,858,357.60
5. Retainage/MT Gross Receipts			
a. 5% X	$ 3,858,357.60	Work Completed = $ 192,917.88	
b. X	$ -	Stored Materials = $ -	
c. Total Retainage (Line 5.a + Line 5.b)			$ 192,917.88
6. Amount eligible to date (Line 4 - Line 5.c)			$ 3,665,439.72
7. Less previous payments (Line 6 from prior application)			$ 2,999,725.33
8. Amount due this application			$ 665,714.39
9. Less MT Gross Receipts Tax (1%)			$ 6,657.14
10. Current Payment Due			$ 659,057.25
11. Balance to finish, including retainage (Line 3 - Line 4 + Line 5.c)			$ 10,245,096.28

Contractor's Certification

The undersigned Contractor certifies, to the best of its knowledge, the following:

(1) All previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with the Work covered by prior Applications for Payment;

(2) Title to all Work, materials and equipment incorporated in said Work, or otherwise listed in or covered by this Application for Payment, will pass to Owner at time of payment free and clear of all liens, security interests, and encumbrances (except such as are covered by a bond acceptable to Owner indemnifying Owner against any such liens, security interest, or encumbrances); and

(3) All the Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

Contractor: Northcon, Inc.

Signature: _____ **Date:** 2/25/26

Recommended by Engineer		**Approved by Owner**	
By:		**By:**	
Title:	Chief Operating Officer	**Title:**	
Date:	02/25/2026	**Date:**	
Approved by Funding Agency			
By:		**By:**	
Title:		**Title:**	
Date:		**Date:**	

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Progress Estimate - Lump Sum Work **Contractor's Application for Payment**

Owner:	City of Hardin	**Owner's Project No.:**	C301316
Engineer:	HDR Engineering, Inc.	**Engineer's Project No.:**	10332175
Contractor:	Northcon, Inc.	**Contractor's Project No.:**	HAY502
Project:	Hardin WWTP Upgrades		
Contract:	Wastewater Treatment Plant Upgrades		

Application No.: 8 **Application Period:** From 02/01/26 to 02/28/26 **Application Date:** 02/25/26

A	B	C	D	E	F	G	H	I
			Work Completed					
Item No.	Description	Scheduled Value ($)	(D + E) From Previous Application ($)	This Period ($)	Materials Currently Stored (not in D or E) ($)	Work Completed and Materials Stored to Date (D + E + F) ($)	% of Scheduled Value (G / C) (%)	Balance to Finish (C - G) ($)
	Original Contract							
1	Mobilization	345,968.00	225,451.00	20,000.00		245,451.00	71%	100,517.00
2	Mobilization Subs	153,630.00	80,072.60	5,500.00		85,572.60	56%	68,057.40
3	General Conditions	470,488.00	402,744.00			402,744.00	86%	67,744.00
4	Divisions 1 (16 Months)	1,813,900.00	806,448.00	113,000.00		919,448.00	51%	894,452.00
5	Demobilization	138,387.00				-	0%	138,387.00
	HEADWORKS					-		-
6	Excavation	170,000.00	120,000.00	6,000.00		126,000.00	74%	44,000.00
7	Building Work Concrete	299,288.00	107,000.00	80,750.00		187,750.00	63%	111,538.00
	HEADWORKS MECHANICAL							
8	Labor	22,317.00				-	0%	22,317.00
9	Material	13,911.00				-	0%	13,911.00
10	Equipment	144,920.00				-	0%	144,920.00
11	Duct Wrap	8,180.00				-	0%	8,180.00
12	Crane	3,500.00				-	0%	3,500.00
13	Test & Balance	3,485.00				-	0%	3,485.00
14	Permit	2,215.00				-	0%	2,215.00
15	Project Management	50,550.00	5,000.00			5,000.00	10%	45,550.00
	HEADWORKS ELECTRICAL							
16	Light Fixtures	18,000.00				-	0%	18,000.00
17	Switchgear	75,000.00				-	0%	75,000.00
18	Controls	110,000.00				-	0%	110,000.00
19	Material	72,500.00		11,322.00		11,322.00	16%	61,178.00
20	Labor	115,000.00	9,905.00	6,000.00		15,905.00	14%	99,095.00
	HEADWORKS BUILDING CONSTRUCTION					-		
21	Precast Wall Panels	235,000.00		34,000.00		34,000.00	14%	201,000.00
22	Labor	120,000.00				-	0%	120,000.00
23	Cabinets	33,000.00				-	0%	33,000.00
24	Roofing	97,500.00				-	0%	97,500.00
25	Doors	25,000.00				-	0%	25,000.00
26	Metal Works/Decking/Fiberglass	130,000.00		-		-	0%	130,000.00
27	Fire Stop and Sealants	12,000.00				-	0%	12,000.00
28	Mechanical Hardware	975,000.00				-	0%	975,000.00
29	Labor	93,000.00	9,000.00	-		9,000.00	10%	84,000.00
30	Plumbing	65,000.00				-	0%	65,000.00

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Progress Estimate - Lump Sum Work

Contractor's Application for Payment

Owner:	City of Hardin	**Owner's Project No.:**	C301316
Engineer:	HDR Engineering, Inc.	**Engineer's Project No.:**	10332175
Contractor:	Northcon, Inc.	**Contractor's Project No.:**	HAY502
Project:	Hardin WWTP Upgrades		
Contract:	Wastewater Treatment Plant Upgrades		

Application No.: 8 **Application Period:** From 02/01/26 to 02/28/26 **Application Date:** 02/25/26

A	B	C	D	E	F	G	H	I
			Work Completed					
Item No.	Description	Scheduled Value ($)	(D + E) From Previous Application ($)	This Period ($)	Materials Currently Stored (not in D or E) ($)	Work Completed and Materials Stored to Date (D + E + F) ($)	% of Scheduled Value (G / C) (%)	Balance to Finish (C - G) ($)
	ADMIN/UV							
31	Excavation	45,000.00				-	0%	45,000.00
32	Concrete Work	250,000.00				-	0%	250,000.00
	ADMIN/UV MECHANICAL							
33	Labor	23,530.00				-	0%	23,530.00
34	Material	12,000.00				-	0%	12,000.00
35	Equipment	28,237.00				-	0%	28,237.00
36	Duct Wrap	2,400.00				-	0%	2,400.00
37	Test & Balance	3,485.00				-	0%	3,485.00
38	Project Management	50,550.00	5,000.00			5,000.00	10%	45,550.00
	ADMIN/UV ELECTRICAL							
39	Light Fixtures	9,200.00				-	0%	9,200.00
40	Switchgear	145,000.00				-	0%	145,000.00
41	Controls	165,000.00				-	0%	165,000.00
42	Materials	48,000.00				-	0%	48,000.00
43	Labor	81,000.00	5,198.00	-		5,198.00	6%	75,802.00
	ADMIN/UV BUILDING CONSTRUCTION							
44	Precast Wall Panels	95,000.00		10,000.00		10,000.00	11%	85,000.00
45	Labor	60,000.00				-	0%	60,000.00
46	Roofing	43,500.00				-	0%	43,500.00
47	Cabinets	12,000.00				-	0%	12,000.00
48	Doors	12,600.00				-	0%	12,600.00
49	Metal Works/Decking/Fiberglass	50,100.00				-	0%	50,100.00
50	Fire Stop and Sealants	5,000.00				-	0%	5,000.00
51	Mechanical	360,000.00				-	0%	360,000.00
52	Plumbing	7,000.00				-	0%	7,000.00
53	Material	8,000.00				-	0%	8,000.00
54	Labor	5,000.00				-	0%	5,000.00
	ADMIN/UV BUILDING ELECTRICAL							
55	Light Fixtures	32,150.00				-	0%	32,150.00
56	Switchgear	134,000.00				-	0%	134,000.00
57	Controls	220,000.00				-	0%	220,000.00
58	Generator	246,150.00				-	0%	246,150.00
59	Material	100,000.00				-	0%	100,000.00
60	Labor	225,000.00	12,340.00	4,000.00		16,340.00	7%	208,660.00

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Progress Estimate - Lump Sum Work | **Contractor's Application for Payment**

Owner:	City of Hardin	**Owner's Project No.:**	C301316
Engineer:	HDR Engineering, Inc.	**Engineer's Project No.:**	10332175
Contractor:	Northcon, Inc.	**Contractor's Project No.:**	HAY502
Project:	Hardin WWTP Upgrades		
Contract:	Wastewater Treatment Plant Upgrades		

Application No.: 8 **Application Period:** From 02/01/26 to 02/28/26 **Application Date:** 02/25/26

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			Work Completed					
Item No.	Description	Scheduled Value ($)	(D + E) From Previous Application ($)	This Period ($)	Materials Currently Stored (not in D or E) ($)	Work Completed and Materials Stored to Date (D + E + F) ($)	% of Scheduled Value (G / C) (%)	Balance to Finish (C - G) ($)
61	Labor to Move Blowers	5,000.00	4,200.00			4,200.00	84%	800.00
	CLARIFIER COMPLEX					-		-
62	Material	15,000.00	5,000.00	2,000.00		7,000.00	47%	8,000.00
63	Labor	50,000.00	20,000.00	5,000.00		25,000.00	50%	25,000.00
64	Excavation	203,000.00	136,200.00	15,000.00		151,200.00	74%	51,800.00
65	Concrete Work	675,000.00	284,000.00	250,000.00		534,000.00	79%	141,000.00
	CLARIFIER COMPLEX ELECTRICAL							
66	Material	30,000.00				-	0%	30,000.00
67	Labor	25,000.00	2,865.00	-		2,865.00	11%	22,135.00
	CLARIFIER 1 NEW CLARIFIER							
68	Labor	75,000.00		6,500.00		6,500.00	9%	68,500.00
69	Material	495,000.00	49,500.00	21,000.00		70,500.00	14%	424,500.00
	CLARIFIERS 2 AND 3							
70	Labor	55,000.00				-	0%	55,000.00
71	Material	310,000.00				-	0%	310,000.00
72	Coatings	100,000.00				-	0%	100,000.00
	RAS VAULT & LIFT STATION							
73	Material	270,700.00				-	0%	270,700.00
74	Concrete Work	112,000.00				-	0%	112,000.00
75	Excavation	25,000.00				-	0%	25,000.00
76	Labor/Demo	12,000.00				-	0%	12,000.00
	RAS VAULT & LIFT STATION ELECTRICAL							
77	Electrical	2,500.00				-	0%	2,500.00
78	Labor	8,500.00				-	0%	8,500.00
	DIGESTER							
79	Material	405,000.00				-	0%	405,000.00
80	Coatings	20,000.00				-	0%	20,000.00
81	Labor	55,000.00				-	0%	55,000.00
	DIGESTER ELECTRICAL							
82	Material	2,500.00				-	0%	2,500.00
83	Labor	8,500.00				-	0%	8,500.00
	OXIDATION DITCH							
84	Demo	92,645.00				-	0%	92,645.00
85	Concrete Work	75,000.00				-	0%	75,000.00
86	Material	205,000.00				-	0%	205,000.00

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Progress Estimate - Lump Sum Work **Contractor's Application for Payment**

Owner:	City of Hardin	**Owner's Project No.:**	C301316
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			Work Completed					
Item No.	Description	Scheduled Value ($)	(D + E) From Previous Application ($)	This Period ($)	Materials Currently Stored (not in D or E) ($)	Work Completed and Materials Stored to Date (D + E + F) ($)	% of Scheduled Value (G / C) (%)	Balance to Finish (C - G) ($)
87	Metal Fab and Install	75,000.00				-	0%	75,000.00
88	Labor	33,000.00				-	0%	33,000.00
89	Coatings	75,000.00				-	0%	75,000.00
	OXIDATION DITCH ELECTRICAL							
90	Material	2,500.00				-	0%	2,500.00
91	Labor	8,500.00				-	0%	8,500.00
	SITEWORK/PIPE WORK							
92	Site Material	750,000.00	247,500.00	70,000.00		317,500.00	42%	432,500.00
93	Labor/Equipment	390,000.00	123,000.00	-		123,000.00	32%	267,000.00
94	Concrete Work	150,000.00				-	0%	150,000.00
95	Bypass Pumping	300,000.00	213,000.00	-		213,000.00	71%	87,000.00
96	Shoring	250,000.00	219,992.00	15,000.00		234,992.00	94%	15,008.00
	SITEWORK/PIPE WORK ELECTRICAL							
97	Material	54,750.00	1,000.00	14,645.00		15,645.00	29%	39,105.00
98	Labor	122,000.00	3,225.00	6,000.00		9,225.00	8%	112,775.00
	Original Contract Totals	$ 13,838,736.00	$ 3,097,640.60	$ 695,717.00	$ -	$ 3,793,357.60	27%	$ 10,045,378.40

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Progress Estimate - Lump Sum Work **Contractor's Application for Payment**

Owner:	City of Hardin	**Owner's Project No.:**	C301316
Engineer:	HDR Engineering, Inc.	**Engineer's Project No.:**	10332175
Contractor:	Northcon, Inc.	**Contractor's Project No.:**	HAY502
Project:	Hardin WWTP Upgrades		
Contract:	Wastewater Treatment Plant Upgrades		

Application No.: 8 **Application Period:** From 02/01/26 to 02/28/26 **Application Date:** 02/25/26

A	B	C	D	E	F	G	H	I
			Work Completed					
Item No.	Description	Scheduled Value ($)	(D + E) From Previous Application ($)	This Period ($)	Materials Currently Stored (not in D or E) ($)	Work Completed and Materials Stored to Date (D + E + F) ($)	% of Scheduled Value (G / C) (%)	Balance to Finish (C - G) ($)
	Change Orders							
1	Change Order 1 for $453,000 Included in Original Contract Values per Approved SOV					-		-
2	Pipe seperation and clarifier clean up	71,800.00	60,000.00	5,000.00		65,000.00	91%	6,800.00
						-		-
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						-		-
	Change Order Totals	$ 71,800.00	$ 60,000.00	$ 5,000.00	$ -	$ 65,000.00	91%	$ 6,800.00
	Original Contract and Change Orders							
	Project Totals	$ 13,910,536.00	$ 3,157,640.60	$ 700,717.00	$ -	$ 3,858,357.60	28%	$ 10,052,178.40

EJCDC C-620 Contractor's Application for Payment
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MAYOR
Riley Ramsey

POLICE CHIEF
Paul M. George Jr.

PUBLIC WORKS DIRECTOR
Michael Hurff Jr.

FINANCE OFFICER/CITY CLERK
Andrew Lehr

February 27, 2026

Re: "City Website Redesign"

Dear Mayor and Members of the Council,

Over the past several months, staff have conducted a thorough and deliberate review process to evaluate options for the City's new website platform. During this time, we have demoed four separate vendors: Revize, CivicPlus, Rebel River, and Zee Creative. Civic Plus and Rebel River presented two different website options, allowing us to compare multiple approaches in design, functionality, and service levels.

In addition to the live demonstrations, staff conducted an inventory of website platforms currently used by other cities and towns throughout Montana to better understand industry standards, trends, and peer experiences. We also sought direct feedback and personal recommendations through professional networks, including input from a board member who serves alongside municipal representatives across the state. This ensured our research extended beyond sales presentations and included real-world user experience.

While several of the platforms are strong and capable options, a significant distinction between vendors is the proposed payment structure. Only one vendor has offered the ability to amortize the total project cost over a five-year period. The remaining vendors require either full payment upfront or a 50% deposit upon contract execution with the remaining 50% due at project launch.

Given current and upcoming budget priorities, the five-year payment option provides a more sustainable and fiscally responsible approach. Spreading the investment across multiple fiscal years minimizes immediate financial impact while still allowing the City to move forward with a much-needed modernization of our digital presence. This structure provides predictability, flexibility, and improved cash flow management.

After extensive research, demonstrations, peer comparison, and reference gathering, staff believe the Revize, who offers the five-year payment structure warrants strong consideration, both for the platform capabilities and the financial terms provided.

We look forward to discussing Council's direction on how you wish to proceed.

Respectfully submitted,

Andrew Lehr
Finance Officer / City Clerk

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The Government Website Experts

A Website Proposal for

The City of Hardin, Montana

Proposal Prepared by:
Kirtis Remund
Kirt@revize.com
Ph: 801-360-5152
www.revize.com

January 19, 2026
Proposal valid for 90 days

revize.
The Government Website Experts

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Revize Clients!

• Des Moines, IA	• www.dsm.city
• Eagle County, CO	• www.eaglecounty.us
• Glencoe, IL	• www.villageofglencoe.org
• Golden, CO	• www.cityofgolden.gov
• Hamilton County, OH	• www.hamiltoncountyohio.gov
• Largo, FL	• www.largo.com
• Olympia, WA	• www.olympiawa.gov
• Pasco County, FL	• www.pascocountyfl.net
• St. Petersburg, FL	• www.stpete.org
• Troy, MI	• www.troymi.gov
• And Many More!	

Dear Mayor Riley Ramsey, Alex Edwards, Andrew "Drew" Lehr, Angela Zimmer, Steven J. Hopes, Jeremy Krebs, Clayton Greer, Antonio Espinoza, George Toyne, Chris Sharpe,

Thank you for considering Revize as your web development partner. For nearly two decades, Revize has been a leader in providing high-quality, government-compliant web solutions. Located in Troy, Michigan we have launched hundreds of government websites nationwide, including nearly 200 right here in Michigan, a myriad of industry awards and hundreds of satisfied clients stand as testament to the quality and value of our work.

Visitors are drawn to websites that are appealing yet functional, user friendly with a plethora of services, and accessible on a wide range of devices. A Revize website will allow your residents and businesses to easily fill out and submit documents, review and pay bills and taxes, perform searches to answer frequently asked questions and perform a suite of other tasks that would otherwise require staff assistance. What's more, a Revize website will enable you to increase staff productivity and decrease costs by reducing off-line departmental operations.

Some of our great clients include:

- City of Largo, FL largo.com – Award Winner
- Eagle County, CO eaglecounty.us – Award Winner
- City of St. Petersburg, FL stpete.org
- City of Des Moines, IA dsm.city – Award Winner
- City of San Carlos, CA cityofsancarlos.org – Award Winner

"Revize Websites build engagement with your constituents."

"revize websites build engagement with your residents"

We will work closely with you to design and develop a dynamic, functional and easy-to-navigate website that will perfectly fit your community.

Then we empower you to control your digital presence with the industry's best administrative management applications. Revize training ensures that your team has the skills needed to expertly update and manage website content and delivery.

Government clients select Revize because we can help them

- Effectively engage residents.
- Enhance their web presence and build an online communications center.
- Empower non-technical web content editors and administrators to easily execute changes.
- Implement a scalable solution that allows them to affordably grow their web presence for the long term.

We have worked hard to establish a reputation for creating online community websites that engage, inform, and increase participation of your community. With our help, your community's website can serve your residents better, inspire them more, and get them actively involved in your government. Please contact me if you have any questions at all.

Sincerely,

Kirtis Remund
Account Executive
Phone: **801-360-5152**
Email: **Kirt@revize.com**

Executive Summary

Thank you for considering Revize Software Systems for your new website project. We understand the importance of this undertaking and know how motivated your government/community is to selecting the right vendor; one who will work with you through all the steps required to build the perfect website featuring a plethora of high quality online services that your constituents will want to use regularly. In more than two decades of working with government leaders, as well as through nationwide surveys, we have learned that the key to choosing a website vendor is finding the right balance between the total cost of the solution and the quality of the design, online apps and user functionality. In simpler terms, you need a solution that works for you and serves your constituents.

About Us

With approximately 3,000 government websites launched nationwide, Revize Software Systems is one of the industry's leading providers. We credit our rapid growth to our 20-year track record of building award-winning government websites and content management systems. When you work with Revize, you're not just a client, you become part of the Revize family anwhd will receive the service and support you need and expect! We are among the most highly respected government website experts in the United States and we proudly stand by our work.

Our Innovative Responsive Web Design (RWD) and Web Apps

Revize has been a pioneer in implementing the latest trends in design by using Responsive Web Design (RWD). This technology ensures that site visitors have an optimal viewing experience — easy reading and navigation with a minimum of resizing, panning, and scrolling — across a wide range of devices, from desktop monitors to mobile phones. RWD provides flexible and fluid website layouts that adapt to almost any screen. When you implement a dynamic new website powered by Revize, you will not only get an outstanding look, layout and navigation, but you also receive 24/7 access to our Government Communication Center for residents, business and visitors.

Here you will find the communication tools you need such as:

- Public Service Request App
- Calendar of Events
- E-Notification Modules
- On-Line Payment Portal
- Facilities Reservations
- News Center with Facebook/Twitter Integration
- Emergency Alerts
- Online Forms / Survey Tools
- E-Newsletter Applications
- Job Posting and Tracking Module
- Public Records Request Tracker

Our Award-Winning Government CMS

Revize is renowned as a leader in providing practical, high-value, easy to use content management software Government CMS. This simple-to-use yet powerful solution enables clients to manage their online presence with high functionality and style. With applications such as an online document center, public service request app, public records request tracker, agendas and minutes, frequently asked questions and more, Revize ensures that our clients have the tools they need to make information and services available for website users at the click of a mouse.

Quick Deployment, Personalized Training and Support

Revize addresses time concerns by completing websites in considerably less time than our competitors. And because our software is so easy to use, we are also able to effectively train our clients in less than half the time it takes our competitors. Our training program is customized based on each client's needs, and we provide hands on training the way you want it – either onsite or off site through web conferencing tools. We pride ourselves on the skills of our support staff, who are responsive, knowledgeable and helpful. Our online support portal is available 24/7/365 for issue tracking and management. We also provide phone and email support during regular business hours.

Did you know? Our technical support staff are trained developers. When you call for tech support, you'll be speaking to staff with direct knowledge of development!

Company Overview

Founded	Headquarters	Phone	Website
1995	150 Kirts Blvd. Troy, MI 48084	248-269-9263	revize.com

Revize Software Systems was founded in June, 1995 as a "new media" development company specializing in the creation of interactive web design, multimedia content delivered on CD-ROM, and video production. Since then, Revize has made an unsurpassed name for itself in government website design, which remains our specialty. We now boast more than 3,000 websites launched in North America and have created acclaimed website designs for hundreds of municipalities and counties, as well as government departments and agencies. In September, 1996 as the Internet was becoming a world-wide reality, Revize began developing a Web Content Management System (CMS) for the government market to enable non-technical contributors to quickly and easily update content on their websites. The result was the creation of our state-of-the-art Revize Government CMS. Our mission has always been to enhance the communications of government organizations nationwide with their varied and valued audiences. This is based on our vision statement, which reads:

"The empowerment of people through simplified information management technologies."

Focused exclusively on creative web design, government web apps and content management technologies, Revize continues to invest in its technology, continually adding new capabilities and features that manifest our vision. While many municipalities choose Revize to develop and cost-effectively manage their website content, clients also use Revize as an information-sharing platform. Our suite of Revize Government web-based solutions has proven valuable as a powerful technology that empowers clients to build and maintain sophisticated web sites, all while using the Internet and internal Intranets/Extranets to acquire, analyze, process, summarize and share information

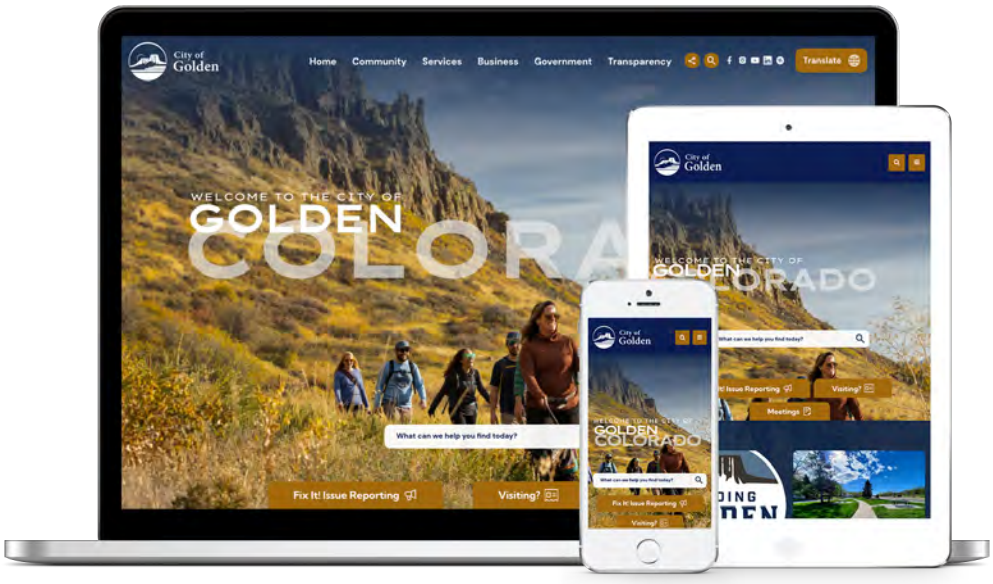
Did you know?

Revize has won national awards for our websites!

Government Project Experience

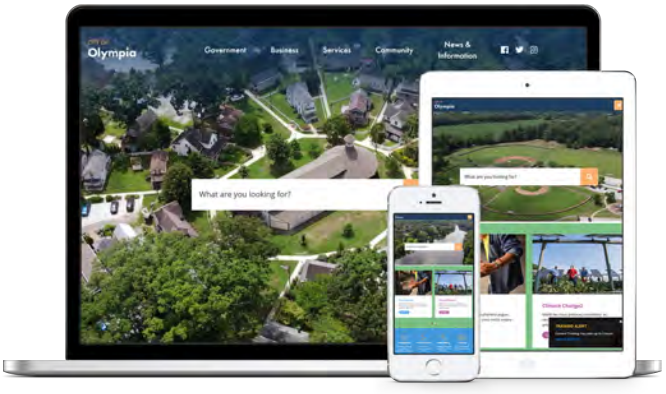
City of Golden, Colorado

www.cityofgolden.gov



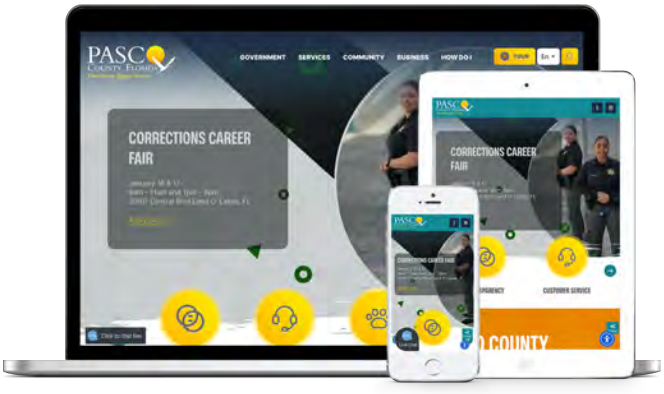
The City of Olympia, Washington

Olympiawa.gov



Pasco County, Florida

www.pascocountyfl.net



Government Account References

Client: City of Wylie, TX
Craig Kelly, Public Information Officer
Phone: (972) 516−6016
Email: craig.kelly@wylietexas.gov
Website: ci.wylie.tx.us

Client: City of Olympia, WA
Joshua Linn, Website Administrator
Office: (360) 570−3782
Email: JLinn@ci.olympia.wa.us
Website: olympiawa.gov

Client: Tipton County, TN
Shawn Anderson, GISP Director
Phone: (901) 476−0234
Email: sanderson@tiptonco.com
Website: tiptonco.com

Timeline

Phase	Duration
Phase 1: Initial Setup & Kickoff Meeting	1 - 2 Week
Phase 2: Discovery & Design	6–8 Weeks
Phase 3A: Development	5–6 Weeks
Phase 3B: Sitemap Development	(Overlaps Phase 3A)
Phase 4: Content Migration	5–6 Weeks
Phase 5: Quality Assurance Testing	1–2 Weeks
Phase 6: Training/Go Live	2–4 Weeks
Go-Live (Average)	20–28 Weeks

Did you know?
The project planning process is designed to fit your needs. We will adapt our timeline if your schedule requires.

Revize Project Team

Revize understands the importance of having a talented and experienced staff. We are proud of our well-respected team of top notch experts in the field of government website design, development, analysis, content management, training and support. From the first creative concepts through to the design phases, and from site launch to training of personnel and continued support of your website project, we have the right group of seasoned professionals to work with you through the website process and beyond. We are pleased to introduce them:

- **Dedicated Account Manager:** Kirt Remund
- **Kristina Kingman:** Project Manager
- **Alex Parent:** Creative Arts Director/Web Designer
- **Samir Alley:** Chief Operations Officer
- **Denise Brazier:** Revize CMS Trainer
- **Jamie Phy:** Revize CMS Integrator/Backend Developer
- **Richard Opiniano:** HTML Developer
- **Joseph Nagrant:** VP Sales/Marketing
- **Derek Ortiz:** Chief Technology Officer
- **Akshaya Ray:** Chief Cloud Architect
- **Many More!**

Revize AI ChatBot

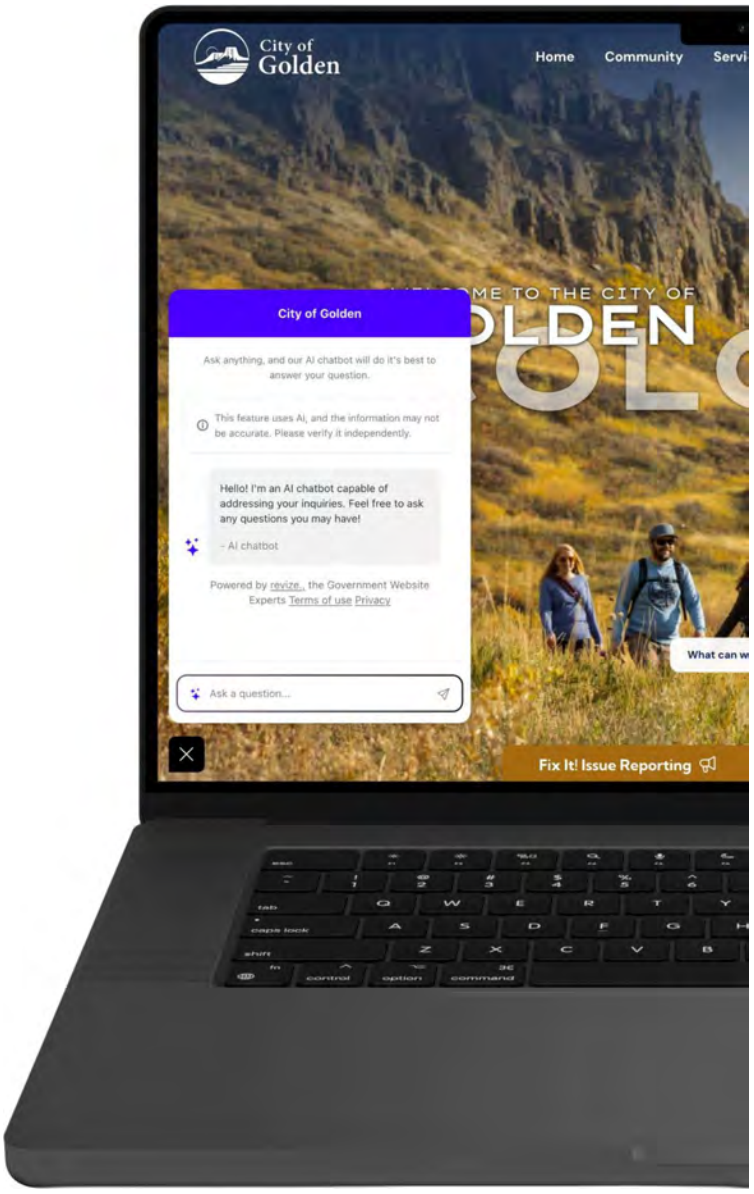
As part of Revize's fully integrated lineup of features, we are excited to introduce the latest in AI Chat technology.

The Revize ChatBot allows your visitors to instantly find answers to their questions – without the need to search, find, and read an entire webpage.

Users simply type in their question, and the Revize ChatBot provides a detailed response in seconds!

Unlike some third-party live chats that force admins to pre-populate content, the Revize ChatBot is quite different. It learns the content of your website and provides answers based on that content.

Admins can even configure the ChatBot to ignore certain content of your website and learn content of other websites.



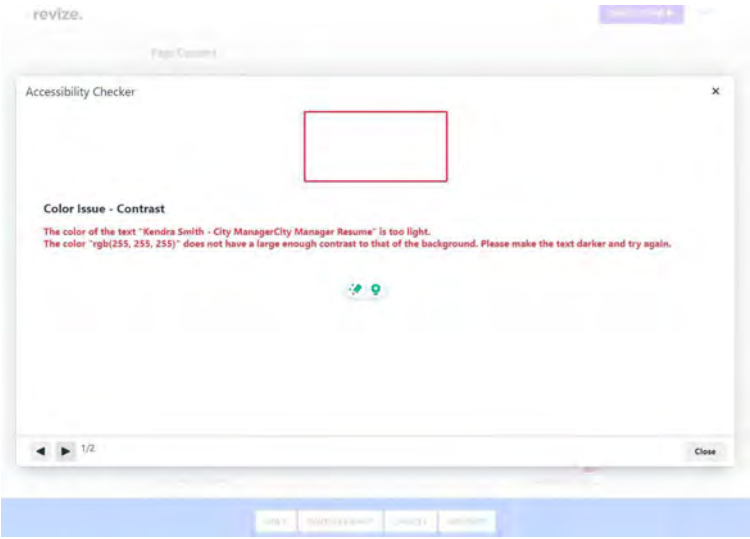
Keep in mind, Revize developed this feature ourselves. Which means the maintenance, updates, tech support are all handled directly by Revize. No need to deal with another vendor.

Accessibility & Compliance

WCAG Accessibility Compliance

Revize has launched more than 3,000 websites nationwide, with accessibility incorporated into both our platform and implementation process. Revize websites are designed to align with WCAG 2.1 AA, while actively incorporating WCAG 2.2 AA best practices as standards evolve using current industry-recognized approaches.

The Revize CMS includes built-in accessibility checking tools to help identify potential issues as content is added or updated. Together, these tools and practices support an ongoing, collaborative approach to accessibility between Revize and our clients.



Accessibility Strategy - During the Project

Revize will:

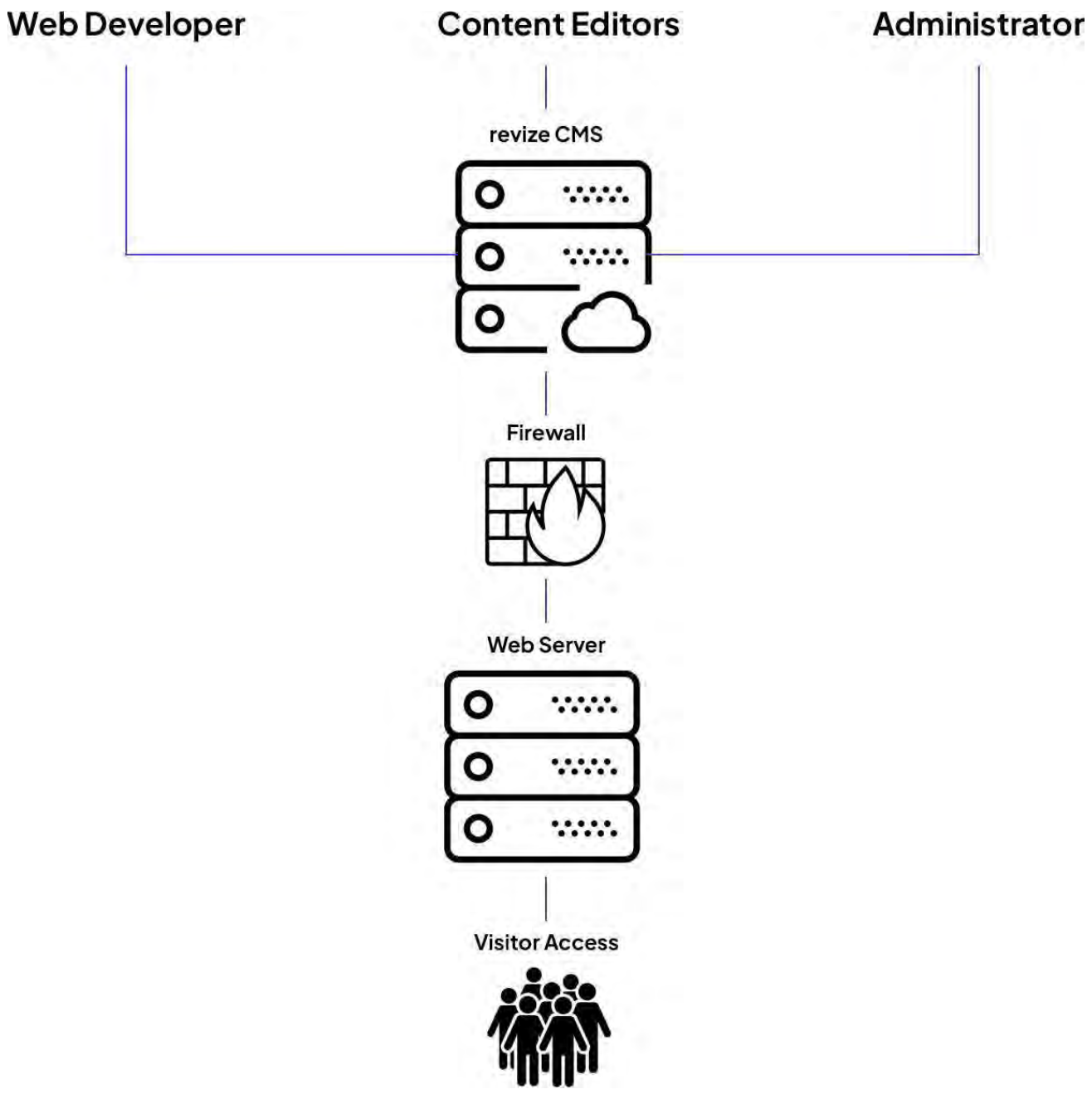
- Design custom visual mockups with WCAG 2.2 AA considerations in mind, including color contrast, typography, layout structure, and interactive elements.
- Build the site using ARIA labels, semantic HTML, and other WCAG best practices.
- Ensure keyboard navigability and screen reader compatibility.
- Include an accessibility checker in the Revize CMS editor.

While Revize provides the framework for compliance, the CLIENT is responsible for ensuring that content (e.g., PDFs, documents, images) is accessible before posting. Revize does offer PDF remediation services as an add-on for files that need to be made compliant.

Revize Technology Architecture

The Revize Government CMS is a standards-based, open architecture software product without any proprietary restrictions. Revize uses leading technologies to avoid integration problems with existing systems and comes complete with its own Integrated Publishing Engine, Embedded Relational DB, JSP/Servlet Engine, and Application Server.

Revize Intelligent Publishing WCM



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Revize Quote

Project Cost

	Total
Phase 1: Kickoff Meeting and Discovery/Project Planning	**$500.00**
Phase 2: Design Mockups/Wireframes One (1) concept, three (3) rounds of changes for each of the following - Homepage & Inner Page	**$3,100.00**
Phase 3A & 3B: Development & Sitemap Development Convert mockups into Revize CMS enabled webpages and provide suggested sitemap	**$4,300.00**
Phase 4: Quality Assurance Testing	**$900.00**
Phase 5: Content Migration Content migration according to approved sitemap – Up to 300 webpages and 700 documents	**Included**
Phase 6: Revize CMS Content Editor Training & Go Live	**$900.00**
Annual Tech Support, Revize CMS License and Hosting Fee: Unlimited tech support, 3 CMS users, up to 10GB website storage, 50GB monthly bandwidth	**$2,600.00**

Total Project Cost $12,300.00

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Optional Add-Ons

Additional Features/Services

	Total
Annual WCAG Scan and Remediation Service (Annual Fee): Includes up to 2 scans per year with up to 4 remediation hours included	**$2,400.00**
AI ChatBot (Annual Fee) With automatic retraining and backend admin access	**$3,400.00**
Revize Email Newsletter (Initial Investment) $600 Annually. Includes up to 10,000 monthly sends	**$2,500.00**
Mobile App (Initial Investment) $3,400 Annual Fee Due Upon Go Live	**$6,500.00**
Logo Design Includes 3 concepts. Client picks one for up to 3 rounds of revisions	**$5,500.00**

Optional Payment Plan – The Revize Client First Plan

The Revize Client First Plan offers local governments an alternative payment plan that makes it easier to purchase a new website on your budget and spreads the one-time project design and development costs over a longer period of time.

Through a minimum three-year contract, The Revize Client First Plan dramatically lowers the one-time project development and start-up costs of launching a new website. What Revize does is combine the one-time and recurring fees and spreading them over the life of the contract. And because we value our continuing relationships with our customers, those who extend their contract beyond the three-year minimum will receive a redesign at the end of their fourth year with Revize Free of Charge.

Optional Payment Plan – Three Year Payment Breakdown – Interest Free

Year 1	**20% of project costs + Annual Hosting, Support, Maintenance** **$4,540**
Year 2	**20% of project costs + Annual Hosting, Support, Maintenance** **$4,540**
Year 3	**20% of project costs + Annual Hosting, Support, Maintenance** **$4,540**
Year 4	**20% of project costs + Annual Hosting, Support, Maintenance** **$4,540**
Year 5	**20% of project costs + Annual Hosting, Support, Maintenance** **$4,540** **Includes Free Redesign**

Included Features

The Following Applications & Features will be integrated into Your Website: In addition to the Government Content Management System, which allows non-technical staff to easily create and update website content, Revize includes a suite of applications and features purpose-built for municipalities. These tools are outlined below and organized into five categories:

Citizen's Communication Center Apps

- Notification Center
- Document Center
- FAQs/Accordion
- News Center
- Online Forms
- Photo Gallery
- Quick Link Buttons
- Revize Web Calendar
- "Share This" Social Media Flyout App

Citizen's Engagement Center Apps

- Citizen Request Center with Captcha
- RSS Feed

Staff Productivity Apps

- Agenda Posting Center
- iCal Integration
- File/Image Manager
- Link Checker
- Menu Manager
- Online Form Builder
- Website Content Archiving
- Website Content Scheduling

Site Administration and Security Features

- Audit Trail
- History Log
- Secure Site Gateway
- Unique Login/Password for each Editor
- URL Redirect Setup/Friendly Links
- User Roles and Permissions
- Web Statistics and Analytics

Mobile Device and Accessibility Features

- Alt-Tags
- Font Size Adjustment
- Language Translator
- Mobile and Tablet Preview while Editing
- Responsive Website Design (RWD)
- WCAG Accessibility

Revize Support Includes

- 8 AM – 8PM EST Phone Support (Monday thru Friday)
- 24/7/365 Portal and Email Support
- Staff provides assistance and answers all questions
- Dedicated support staff
- New/existing user training
- Free Training Refreshers
- Video tutorials and online training manual
- Automatic integration of enhancements
- E-Newsletter Module support
- Automatic upgrade of CMS modules, such as Calendar, Document Center, etc.
- Four major CMS upgrades per year
- Software and modules upgrades (automatic install)
- Server hardware and OS upgrades
- Immediate bug fixes/patches
- Round the clock server monitoring
- Data Center Network upgrades
- Security and antivirus software upgrades
- Firewall and router upgrades
- Bandwidth and network infrastructure upgrades
- Remote backup of all website assets
- Cloud backup of all website assets
- Quarterly Newsletters on major feature updates
- Regular webinars on CMS features and usage

Did you know?

Revize updates your Content Management System on a rolling basis throughout the year

revize.

Thank you

For Considering revize

Prepared by Kirt Remund

150 Kirts Blvd. Troy, MI 48084

Ph: 801-360-5152

Email: Kirt@revize.com

www.revize.com

Disclaimer

Scope of Proposal: The information contained in this proposal is for general informational purposes only. The content of this proposal is subject to change without notice, and revize LLC reserves the right to modify, amend, or alter any part of the proposal at its sole discretion. The services, deliverables, timelines, and pricing outlined herein are estimates and are subject to further negotiation and final agreement.

CIVICPLUS
Municipal Websites
CENTRAL

City of Hardin, Montana

Web Central Starter: Summary

Proposal valid for 60 days from date of receipt

Company Overview

CivicPlus started back in June of 1998 with a simple yet powerful vision: to create a website solution that allowed municipal staff to maintain their websites daily without needing a technical webmaster. As technology advanced, we saw our customers' need to bring more services online. We expanded our vision to make local government work better as a whole.

Today, CivicPlus provides public sector technology that automates processes, digitizes services, and enhances civic experiences. Our wide range of government software solutions are designed to be flexible, scalable, and customizable, ensuring a frictionless experience for residents and staff. Our portfolio includes solutions for:

- Process Automation and Digital Services
- Planning, Permitting, Licensing, and Code Enforcement
- Fire and Life Safety Inspections
- Asset Management
- Utility Billing
- Social Media Archiving
- FOIA Management
- Municipal Websites
- Web Accessibility
- Agenda and Meeting Management
- Codification
- Emergency and Mass Notifications
- Parks and Recreation Management
- 311 and Citizen Relationship Management

EXPERIENCE & RECOGNITION

25+ Years

10,000+ Customers

950+ Employees

CivicPlus has over 25 years of experience working with municipal organizations across the US and Canada. Our commitment to deliver the right solutions in design and development, end-user satisfaction, and secure hosting has been instrumental in making us a leader in government web technology. We are proud to have earned the trust of our over 10,000 customers and their over 100,000 administrative users. In addition, over 340 million residents engage with our solutions daily. With such experience, we are confident that we can provide the best solution for you.

CONTACT INFORMATION

Primary Office

302 S. 4th Street, Suite 500, Manhattan, KS 66502

Phone: 888.228.2233 | Fax: 785.587.8951

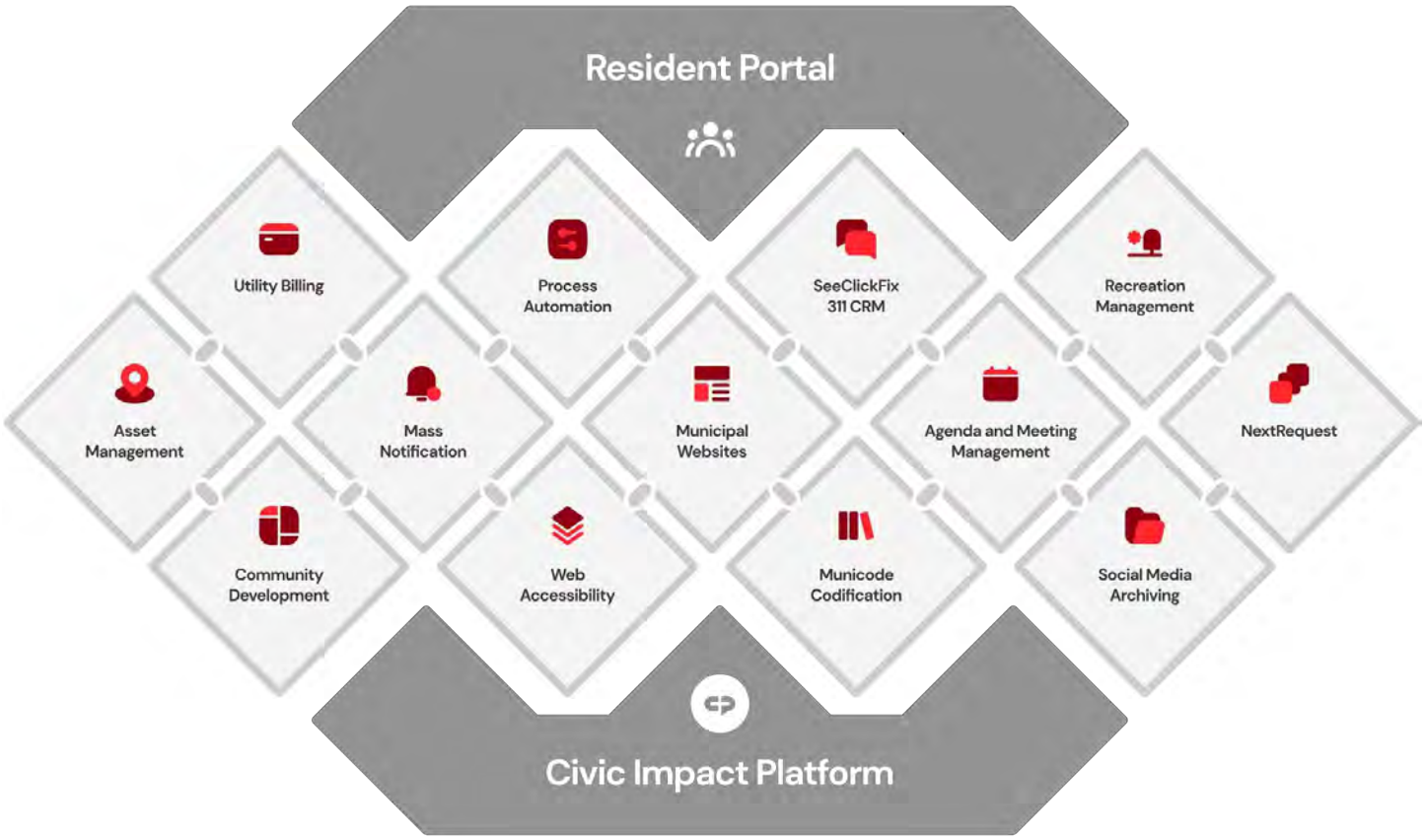
Civicplus.com

Powering & Empowering Government

We empower municipal leaders to transform interactions between residents and government into consistently positive experiences that elevate resident satisfaction, increase revenue, and streamline operations.

Government leaders tell us that one of their most pressing needs is to improve how residents access and experience municipal services; however, they struggle with budget cutbacks and technology constraints. CivicPlus enables civic leaders to solve these problems, making consistently positive interactions between residents and government possible.

CivicPlus is the only government technology company exclusively committed to powering and empowering governments to efficiently operate, serve, and govern using our innovative and integrated technology solutions built and supported by former municipal leaders and award-winning support teams. With it, municipalities increase revenue and operate more efficiently while fostering trust among residents.



CIVICPLUS

Pricing is valid for 90 days

Website	Standard	Premium
One-Time Standard Implementation	$850	$1,700
Annual Subscription Fees	$4,664	$5,772
Bundling Discounts Available		

Base Inclusions			Price
Agenda Center Calendar Alert Center Document Center Notify Me Form Center	Graphic Links Quick Links Info Advanced News Flash Staff Directory FAQs	Guardian/Cloudflare Tier 1 Security for PCI Compliance and Visitor Surges. DNS | Domain Management SSL Management Hosting and Security	Included

Website Optional Add-On	Price
Additional Live Training Per Module	$375 one-time
Additional Meetings and Agenda Migration per 100 Meetings (2 previous years plus current year included in base price)	$850 one-time
Standard Department Header Page	$2,933 one-time | $813 annual fee
Premium Department Header Page	$4,515 one-time | $938 annual fee
Accessibility with AudioEye	$500 one-time | $2,500 annual fee
CommonLook – PDF Remediation – One License	$1,443 annual fee
48 Month Redesign Annual Fee	Standard $250 | Premium $425
Convert PDF Forms to Fillable Forms	$40 per PDF page
Facilities and Reservations Module	$350 annual fee
Resource - Business Directory Module	$350 annual fee
Activities Module	$350 annual fee
Bids Posting Module	$350 annual fee
Jobs Module	$350 annual fee
Opinion Polls Module	$350 annual fee
Blog Module	$350 annual fee
Real Estate Locator Module	$350 annual fee
CivicSend – E News Letter Builder Added to Notify Me	$750 one-time | $2,374 annual fee
CivicPlus Pay with Forte	$500 one-time | $250 annual fee
Additional Block of 500 Notify Me SMS Subscribers (Comes with a block of 500)	$945 annual fee
Chatbot	$2,750 annual fee

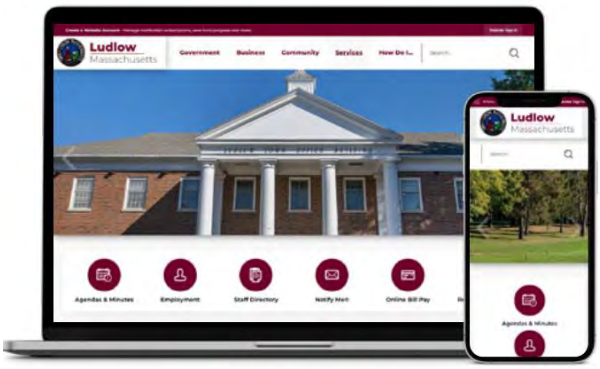
Other Popular Integrated Solutions	Price
Mass Notification	Ask Me – Scoping Necessary
Meetings and Agenda Management	Ask Me – Scoping Necessary
Social Media Archiving	Ask Me – Scoping Necessary
Next Request (Public Records Request)	Ask Me – Scoping Necessary
Municode Codification (Code of Ordinance)	Ask Me – Scoping Necessary
SeeClickFix 311 CRM	Ask Me – Scoping Necessary
Web Accessibility	Ask Me – Scoping Necessary
Community Development (Permitting, Licensing, Code Enforcement)	Ask Me – Scoping Necessary
Asset Management	Ask Me – Scoping Necessary
Process Automation (Advanced fillable forms with automated workflow)	Ask Me – Scoping Necessary
Recreation Management	Ask Me – Scoping Necessary

Standard Package Designs

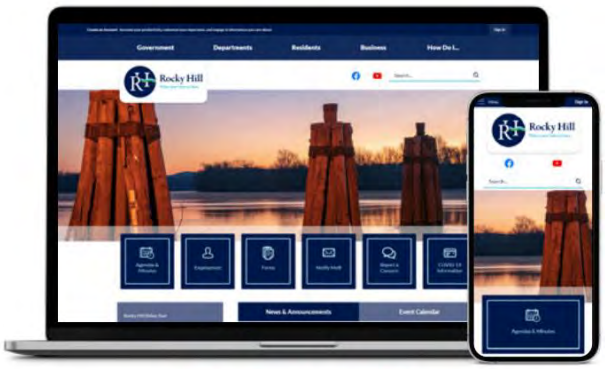
You will choose one of our fixed layout options as the base of your website. You will then be given the opportunity to submit personalized information, like imagery, branding, graphic button preferences, and more to be taken into design consideration. This finalized design will not only represent your unique community, but—combined with the functionality of the Web Central Starter CMS – will help you provide an attractive and convenient online resource for your community.

DESIGN EXAMPLES

The included design portfolio will provide you with an idea of the different directions we can take your creative design with the standard implementation package.

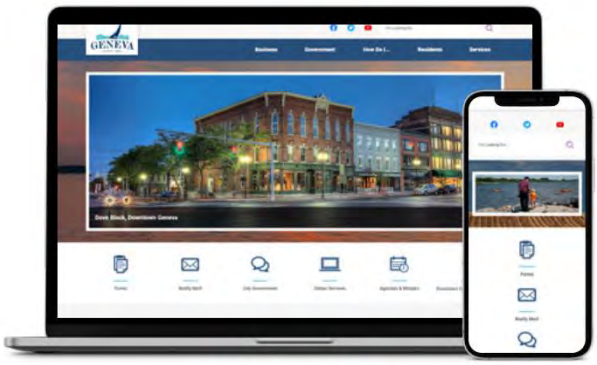


Ludlow, MA

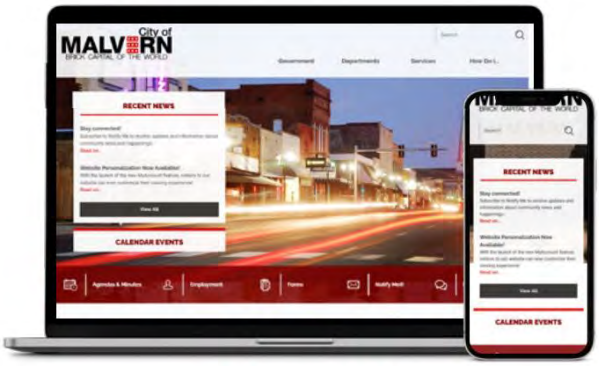


Rocky Hill, CT

Clark County, KY



Geneva, NY



Malvern, AR

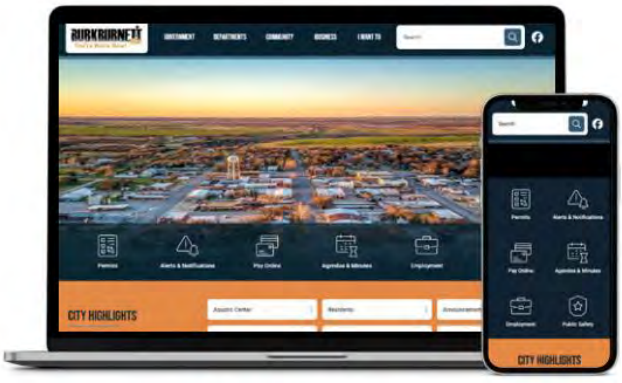
Premium Package Designs

You will meet with your art director to discuss your website vision based on the goals and needs of your users. This process involves conversing with your art director on the order, placement, and format of your homepage content and design elements, aimed at achieving your usability goals. Your preferences will be solidified into a homepage layout wireframe, which will provide the structural blueprint for the visual design application.

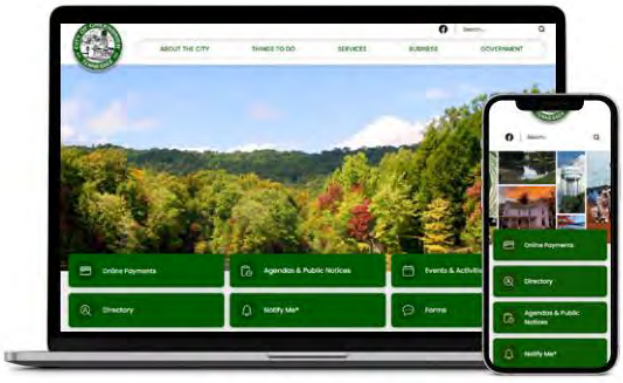
We will then collaborate with you to customize your design to represent your community using your logo, chosen colors, and imagery. We will focus on including the functionality to meet your website needs, including an option for up to one Advanced Design Component, if desired. Advanced Design components provide next-level user engagement by leveraging the latest design enhancements in the Web Central Starter product. Your art director will help you choose the component that works best for your website and desired site maintenance level.

DESIGN EXAMPLES

The included design portfolio will provide you with an idea of the different directions we can take your creative design with the standard implementation package.

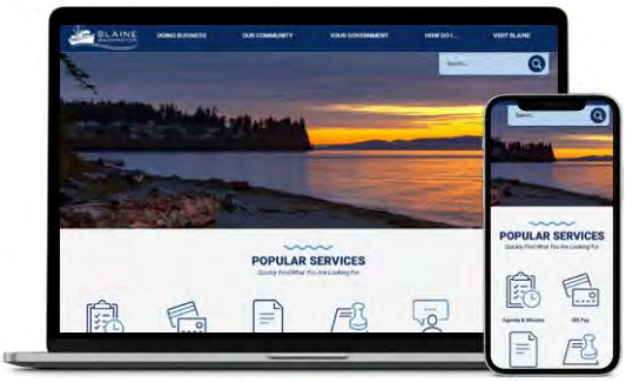


Burkburnett, TX



Greenbrier, TN

Cheverly, MD



Blaine, WA

Standard Package Timeline | 8-10 Weeks

PHASE 1: INITIATE & ANALYZE	**2 Weeks**	• Project Kickoff Meeting • Planning & Scheduling • Customer Deliverable Submission
PHASE 2: CONTENT IMPLEMENTATION & DESIGN CREATION	**5 Weeks**	• Site Map Creation • Content Implementation • Design Creation • Google Analytics Account Creation • Quality Control.
PHASE 3: EDUCATE	**1 Week**	• Group Training
PHASE 4: LAUNCH	**1 Week**	• Project Scope Completion • Website Launch

Premium Package Timeline | 10-12 Weeks

PHASE 1: INITIATE & ANALYZE	**3 Weeks**	• Project Kickoff Meeting • Planning & Scheduling • Customer Deliverable Submission • Design Discovery Meeting
PHASE 2: CONTENT IMPLEMENTATION & DESIGN CREATION	**5 Weeks**	• Site Map Creation • Content Implementation • Design Creation • Google Analytics Account Creation • Quality Control.
PHASE 3: EDUCATE	**1 Weeks**	• Training Engagement
PHASE 4: LAUNCH	**2 Weeks**	• Project Scope Completion • Website Launch

Approaching Your Project Implementation

Communication between you and your CivicPlus team will be continuous throughout your project. Sharing input and feedback through email, virtual meetings, phone calls, and our project management software will keep all stakeholders involved and informed. Cloud Coach offers task management transparency with a multi-level work breakdown structure and Gantt Chart-based project plan.

- Centralized project communication and task management tools are located in a cloud-based project workspace
- Tasks, deliverables, and milestones are aligned to your specific scope of work

The tools available through Cloud Coach combined with regular communication with your project manager provide you ample opportunities to quickly and efficiently review your project, check deliverables, and communicate feedback.

Standard	Premium
PHASE 1: INITIATE & ANALYZE	**PHASE 1: INITIATE & ANALYZE**
Project Kickoff Email – Your project manager will kick off your project via email, introducing your CivicPlus team, detailing deliverables needed, providing a high-level overview of the development process, and introducing tools and resources used to manage your project.	**Project Kickoff Email** – Your project manager will kick off your project via email, introducing your CivicPlus team, detailing deliverables needed, providing a high-level overview of the development process, and introducing tools and resources used to manage your project.
Planning & Scheduling – Your project manager will create a comprehensive project timeline based on the project scope and your specific needs.	**Planning & Scheduling** – Your project manager will create a comprehensive project timeline based on the project scope and your specific needs.
Customer Deliverable Submission – You will be responsible for submitting deliverables as outlined.	**Customer Deliverable Submission** – You will be responsible for submitting deliverables as outlined.

	Design Discovery Meeting – Your project manager and art director will meet with you to discuss design preferences and establish design structure from flexible layout options.

PHASE 2: CONTENT IMPLEMENTATION & DESIGN CREATION

Site Map Creation – Our content development team will generate a site map of your existing website in preparation for the content implementation.

Content Implementation – Our Content Development team will migrate up to 150 pages of content (including their text, documents, and images) from your current website to your new, Central Starter website. Additional pages of content can be added for an additional fee. Content will be enhanced for accessibility, and we will organize your website pages to make them easy to navigate. They will also migrate the current year and the previous two years of simple meeting agendas and minutes to the Agenda Center module. Additional years can be added for an additional fee.

Design Creation – You'll have the chance to review the responsive design prototype and provide feedback and/or approval.

Google Analytics Account Creation – Your website will be set up with a Google Analytics account.

Quality Control – Our Content Development team will complete a quality control check to ensure proper content migration.

PHASE 3: EDUCATE	PHASE 3: EDUCATE
Group Training – Throughout the development and after launch, you and your team can access on-demand training, resources, and educational opportunities. Our initial training is offered online to administrators and content contributors. Individuals can attend group training sessions in the weeks prior to going live.	**Training Engagement** – Our goal with your training plan is to give your staff the skills and tools they need to quickly and easily keep your website current. Your trainer will deliver training sessions for both administrators and users. These sessions will be customized to equip your staff with the knowledge and comfort level needed to prepare your website for launch and maintain it in the future. The training session will use your production website so that users are familiar with your specific configuration, and you can obtain hands-on experience.

PHASE 4: LAUNCH

Project Scope Completion – Your Central Starter project team confirms all the details that are necessary to take your website live and explain what you can expect on launch day.

Website Launch – After final confirmation, your website will be made live and available to the public.

Your Role During Implementation

- To help create the strongest possible website, we will need you to:
- Choose your desired layout – *Standard Package Only*
- Complete the Content form – *Standard Package Only*
- Gather photos and logos that will be used in the overall branding and design

- Provide website statistics to be utilized in reorganizing your website content, navigation, and design (*if available*)
- Complete the Design Form to communicate design preferences
- Provide technical information in the DNS form for the set-up of your website domain name(s)
- Perform reviews and provide official approvals throughout the project
- Update the content on your current website and delete any pages you no longer need
- Track website updates to be completed during your training session
- Ensure you have the most up-to-date web browsers installed on your organization's computers
- Compile a list of your website users and desired permission levels
- Reserve training location and necessary resources (computers, conference phone, etc.)

CMS Features & Functionality

CivicPlus' Municipal Websites Central Standard (Web Central Starter) content management system (CMS) is robust and flexible with all the features and functionality you need today and in the future. Developed for municipalities that need to update their website frequently, CivicPlus provides a powerful government content management structure and website menu management system. The easy-to-use system allows non-technical employees to efficiently update any portion of your website.

Each website begins with a unique design developed to meet your specific communication and marketing goals, while showcasing the individuality of your community. Features and capabilities are added and customized as necessary, and all content is organized in accordance with web usability standards.

Modules & Widgets

RESIDENT ENGAGMENT

Web Central Starter offers many effective and easy-to-use resident engagement features. These tools easily integrate with other key features.

Calendar – Create multiple calendars and events for upcoming activities that are viewable by list, week, or month.

Notices and Alerts – Post emergency or important information on your website and notify residents through email and SMS, via Alert Center.

Form Center – Create custom, online forms via simple drag-and-drop functionality. Track form submissions within the CMS and route email notifications to the appropriate individual(s).

News – Post news items and keep your residents up to date on important information via News Flash.

Notifications – Allow your residents to subscribe to receive text and email notifications on topics that are important to them via Notify Me® (includes up to 500 SMS users).

Pop-up Module – Use a pop-up modal to call attention to important information and notices, sitewide or on specific pages.

ASSET MANAGMENT

Web Central Starter is fully equipped with a robust set of document and image management tools that work with other key features of our CMS, making it easy to build dynamic content that is easy for residents to navigate and access.

Agenda Center – Create and display meetings and agendas on the website utilizing our built-in Agenda Center module. For advanced functionality, including live meeting management, our integrated Agenda and Meeting Management product is available as an add-on.

Document Center – Organize and management documents in one central repository.

Public Images – Store all your images in one central location, to utilize individually or create slideshows on our site. Use the built-in editor to crop and resize photos, as needed. Images are optimized for performance, mobile responsiveness, and contain alt text for accessibility compliance.

INFORMATION & NAVIGATION

Organize your content and pages to make it easy to locate the information you and your residents need most with modules that help you update information quickly.

Easy for Residents to Navigate – An intuitive design, mega menu options, prominent buttons, and dynamic breadcrumbs throughout your site, all allow residents to easily find what they're looking for.

Frequently Asked Questions (FAQs) – Provide answers to the most frequently asked questions to reduce phone and foot traffic for staff.

Graphic Links – Create visually appealing buttons to direct users to important information.

Info Advanced – Use Info Advanced to create engaging displays of information for reuse throughout the website.

Quick Links – Provide links to highly requested services and information. These are commonly displayed in website footers and right-hand navigation.

Staff Directory – Provide contact information for departments and individual staff members. Use the information throughout the site and keep updated in one location. The Staff Directory widget allows you to quickly place specific persons or departments on relevant pages.

COMMONLY USED WIDGETS

An extensive widget library is available for ease of placing dynamic and visually appealing information on specific pages. Each widget is easy to use with drag-and-drop functionality and is configurable with individual styling options.

Custom HTML Widget – Embed videos or other HTML features in your page.

Editor Widget – Edit text with word processing tools, plus web tools like code view and the Accessibility Checker.

Form Center Widget – Embed simple forms on a page.

Image Widget – Add images to a page.

Related Documents Widget – Create a dynamic list of documents referenced in the Document Center.

Slideshow Widget – Add a slideshow of images.

Tabbed Widget – Organize larger pages of information in horizontal, vertical, or stacked vertical or accordion style tabs.

ADMINISTRATIVE FEATURES

The administration of your Web Central Starter website is browser based, with no installation of software needed. You'll be able to update your website from an internet connection on any platform (Mac or PC). Administrators can control access to pages and manipulation of content as well as use automated features to streamline processes.

Administrative Dashboard – A home base for messages and quick access to your recent activities and time-sensitive action items such as pending approvals and expiring items.

Content Scheduling & Versioning – Set your content to auto-publish and auto-expire, with an archive of all published content and previous versions.

Dynamic Page Components – Modules such as Calendar, FAQs, and News Flash, may be included as dynamic page components on any page.

History Log – Track changes made to your website.

Intranet – Use permissions to set a secure location on your website that allows employees to login and access nonpublic resources and information.

Levels of Permissions – Assign staff members to groups with different levels of permissions of access and authority throughout the CMS.

Pending Approval Items – Administrators have access to a queue of pending items to be published and reviewed.

Website Statistics – Provided website analytics for analysis.

USER-FRIENDLY FEATURES

Not only is Web Central Starter easy for your staff to use, various administrative features help make a more attractive, engaging, and intuitive website for your community.

Automatic Alt Tags – Built-in features assist with ongoing ADA compliance of your website.

Credit Card Processing – With the add-on feature CivicPlus Pay (Pay), you can integrate with an approved payment processor to accept payments on your website (separate agreement must be made directly between you and the chosen approved processor). Additional fees apply.

Preset Styling Standards and Ongoing Styling Flexibility – Site changes automatically inherit design standards and styles that you've set up for your homepage, interior layouts, and simple layouts. This keeps your website looking clean and always matching. We also offer large amounts of flexibility with placement and styles on an ongoing basis. As you edit your website, you can easily adjust the location and style of widgets, content, carousels, lists, calendars, etc. to meet the look and feel you need for that area.

Link Redirects – Instead of sending your users to http://civicplus.com/248/Awards-and-Recognition, you can send them to http://civicplus.com/awards.

Live Edit – See where your information will be posted on a page before you make any changes with our WYSIWYG editor and drag-and-drop tools.

Maps – Easily embed maps from Google, ESRI, and more using the HTML widget. Mega Menu – A main navigation menu makes it easy to get to any page on your website quickly.

Predictive Site Search – Our powerful site search functionality automatically indexes all content making it easy for visitors to find information across pages, documents, and images.

Site Search Log – All search words are kept in a log.

Real Simple Syndication (RSS) Feeds – Administrators and website visitors can use RSS feeds to display content or be notified of content updates.

Responsive Design – With responsive design, your website adjusts to the screen size regardless of what device is being used, providing a seamless user experience.

Social Media – Set various modules to automatically post to your Facebook and/or X (formerly Twitter) feeds and incorporate compatible social media feeds and widgets into your website.

Supported Browsers – View your website in the latest versions of major browsers including Microsoft Edge, Firefox, Safari, and Chrome.

Third-Party Access – Utilize iframes, embeds, and/or links to most of your third-party services. Or use our growing list of APIs to build applications right from your website.

Translation – Integration with Google Translate translates web pages into over 100 languages.

ACCESSIBILITY COMPLIANCE

With over 20% of adults in the United States having a disability, you need a website that conforms to all residents. CivicPlus wants to help our customers maximize accessibility for all users and surpass Section 508 ADA accessibility requirements while providing you the freedom to create a visually rich and appealing website. Our multi-faceted approach sets you up for success:

- We build websites using WCAG guidelines to be highly accessible at go live.
- Our trainers will teach your staff best-practices to keep your content and design elements accessible and up to date with the latest ADA/ WCAG standards.
- Your staff can use the Accessibility Checker included within the CMS to scan content created in the editor for accessibility issues so you can correct them before publishing.

• Any new regulations that require code changes are done automatically by our product team, at least quarterly, with no additional effort required from you.

• In addition, our product team updates our best practices and provides regular updates to customers via the CivicPlus website, blog articles, webinars, and other publications.

Due to the dynamic nature of website content updates, an ongoing accessibility solution can be incredibly beneficial in ensuring sustained accessibility compliance. CivicPlus provides three long-term web accessibility solutions offering varying approaches to help with your compliance maintenance challenges. Additional details and/or a quote can be provided upon request.

• **AudioEye Partnership** – CivicPlus partners with AudioEye to provide a suite of accessibility tools and services for WCAG 2.2 compliance at a discounted rate to our customers.

• **Acquia Optimize: Website Optimization & Compliance Tools** – Acquia Optimize is an easy-to-use web governance platform available to purchase and add to your project. Acquia Optimize's tools help you identify, prioritize, and address content quality assurance and accessibility issues on your website so that you can achieve and maintain compliance according to WCAG 2.1 standards. Further, we can help you meet the latest data privacy and government policy standards.

• **CivicPlus CommonLook Accessibility Software** – Efficiently and accurately ensure PDFs are accessible to all members of your community. CommonLook provides an all-in-one environment for testing, remediating, and verifying PDF documents and provides a set of automated tools.

ADD-ON MODULES

In addition to our comprehensive CMS offering, we provide a range of additional modules designed to enhance functionality and meet specific organizational needs. Each module is tailored to deliver specialized capabilities, ensuring you have the flexibility to create a solution that aligns perfectly with your objectives. Please reach out if you are interested in including any of these options into your new CMS project.

Blog – Post opinions/information about various community topics and allow resident comments and subscriptions.

Get Community Input – Post initiatives and project ideas to receive feedback and interact with your residents via Community Voice.

Opinion Poll – Poll your residents on important topics by showing the Opinion Poll widget on relevant pages, to grab resident attention and quickly capture their responses to your polls. Polling helps with gathering and evaluating resident feedback, increasing resident engagement, and understanding your community.

Photo Gallery – Display photos of parades, local sporting events, or historical locations through albums or slideshows. Users can vote on favorites or share via email and social media.

Archive Center – Manage and retain serial and older documents.

Real Estate Locator – Lets community members list and manage residential and commercial properties separately, with dedicated search functions. Users can post and manage listings 24/7 after setting up a profile and paying a subscription fee, while administrators can approve or auto-publish listings.

Resource Directory – Use the Resource Directory to showcase information on local businesses and/or community resources.

Activities – Create and post activities, events, and classes so residents can register for them and even pay online. Your administrators can view and create rosters. The Activities module integrates with the Facilities module so residents can view the location of the activity.

Facilities & Reservations – Display facilities on your site for residents to browse. Allow them to filter by amenities, view facility details, and even make reservations online.

Job Postings – Post available jobs online and accept online applications.

Bids – Post open bid opportunities for contractors to view available work, download supporting documentation, receive notifications on posted opportunities and submit bid applications online.

Continuing Services

Technical Support & Services

With technology, unlimited support is crucial. Our live technical support engineers based in North America are ready to answer your staff members' questions and ensure their confidence. CivicPlus' support team is available 7 a.m. – 7 p.m. CST to assist with any questions or concerns regarding technical functionality and usage of Web Central Starter.

CivicPlus Technical Support will provide a toll-free number, online chat support, as well as an online email support system for users to submit technical issues or questions. If the customer support specialist is unable to assist with the question or issue, the three-tier escalation process will begin to report issues to our product engineering team for resolution.

Support at a Glace

- Technical support engineers available 7 a.m. – 7 p.m. (CST) Monday – Friday (excluding holidays)
- Accessible via phone, email, and chat
- 4-hour initial response during normal hours
- 24/7 emergency technical support for named points of contact
- Dedicated customer success manager
- Online self-service help with the CivicPlus Help Center (civicplus.help)

Emergency technical support is available 24/7 for designated, named points-of-contact, with members of CivicPlus' support teams available for urgent requests.

CIVICPLUS HELP CENTER - CivicPlus customers have 24/7 access to our online Help Center where users can review articles, user guides, FAQs, and can get tips on best practices. Our Help Center is continually monitored and updated by our dedicated Knowledge Management Team to ensure we are providing the information and resources you need to optimize your solution. In addition, the Help Center provides our release notes to keep your staff informed of upcoming enhancements and maintenance.

AWARD-WINNING - CivicPlus has been honored with three Gold Stevie® Awards, six Silver Stevie® Awards, and nine Bronze Stevie® Awards. The Stevie Awards are the world's top honors for customer service, contact center, business development, and sales professionals.

CONTINUING PARTNERSHIP - We won't disappear after your website is launched. You'll be assigned a dedicated customer success manager who will partner with you by providing information on best practices and how to utilize the tools of your new system to most effectively engage your residents.

ENGAGEXCHANGE

The ENGAGEXCHANGE is an online community and the central hub of ideas, guidance, tips, advice, and more for our Web Central Starter customers. It reflects our commitment to:

Connection – Customers can connect with their peers to ask questions, discover solutions, share ideas, and join focus groups and beta opportunities.

Direction – Customers will have the opportunity to provide targeted input on the future direction of the Web Central Starter roadmap and will be able to submit ideas for improvements and enhancements. MAINTENANCE CivicPlus is proactive in identifying any potential system issues. Through regularly scheduled reviews of site logs, error messages, servers, router activity, and the internet in general, our personnel often identify and correct issues before they ever affect our customers' web solutions. Our standard maintenance includes:

- Full backups performed daily
- Regularly scheduled upgrades including fixes and other enhancements
- Testing
- Development
- Operating system patches

Hosting & Security

CivicPlus protects your investment and takes hosting and security of our customers' websites seriously. Redundant power sources and internet access ensure consistent and stable connections. You'll find that our extensive, industry-leading process and procedures for protecting and hosting your website are unparalleled. We offer secure data center facilities, constant and vigilant monitoring, and updating of your system, including 99.9% guaranteed up-time (excluding maintenance). If you experience a DDoS attack or threat, CivicPlus has mitigation and DDoS Advanced Security options available to you at the time of an event. Whatever your needs are, we have an option that will fit your community.

Data Center	• Highly Reliable data center & secure facility • Managed network infrastructure • On-site power backup & generators • Multiple telecom/network providers • Fully redundant network • System monitoring – 24/7/365
Bandwidth	• Multiple network providers in place • Burst bandwidth – 22 Gb/s • Unlimited bandwidth usage for normal business operations (does not apply in the event of a cyber attack)
Hosting	• Web Central Starter software updates • Server management & monitoring • Multi-tiered software architecture • Server software updates & security patches • Database server updates & security patches • Antivirus management & updates • Server-class hardware from nationally recognized provider • Redundant firewall solutions • High performance SAN with N+2 reliability
Disaster Recovery	• Emergency after-hours support, live agent (24/7) • On-line status monitor by Data Center • 8-hour guaranteed recovery TIME objective (RTO) • 24-hour guaranteed recovery POINT objective (RPO) • Pre-Emptive monitoring for disaster situations • Multiple, geographically diverse data centers
DDoS Migration	• Defined DDoS Attach Process • Identify attack source and type • Monitor attack for threshold* engagement
DDoS Advanced Security Coverage	• Not Included – additional coverage available at time of event (fees will apply)

*Thresholds: Traffic exceeds 25 Mb/s sustained for 2+ hours. Traffic over 1 Gb/s at any point during an attack.

GUARDIAN SECURITY

Our Guardian Security Package provides a comprehensive, cost-effective solution tailored for local governments seeking robust security without breaking the bank. Powered by enterprise Cloudflare, this package includes:

- Web Application Firewall (WAF) fully customized for our application
- OWASP ModSecurity Core Rule Set for protection against the Top 10 vulnerabilities identified by the Open
- Web Application Security Project (OWASP), such as SQL injection (SQLi) and cross-site scripting (XSS) attacks
- User Agent Blocking rules to block specific browser or web application User-Agent request headers
- Visitor blocking or challenging by IP address, autonomous system number (ASN), or country code
- Reputation-based threat protection and collective intelligence (CI) to identify new threats

Optional Website Enhancements

RECURRING REDESIGN

At CivicPlus, we understand trends change daily and we continually analyze different ways to design our websites—making it easier and more user friendly for your residents to navigate. One of our best practices to help keep up with these new trends is by adding a redesign to your project. During the redesign, you'll also receive a quality control review to ensure content is as expected with the new design application (although no changes will be made to the content itself). With this new design, you'll stay up to date with current trends and best practices, providing a welcoming yet familiar virtual hub to engage your community.

AUDIOEYE MANAGED

AudioEye offers a range of products and services from self-service to turnkey managed solutions. At the core of AudioEye, is the Digital Accessibility Platform (DAP), this powerful tool empowers auditors, designers, and developers to understand issues of accessibility and improve website infrastructure thorough the use of an innovative and easy to-use interface. The AudioEye Toolbar offers web personalization tools. Conforming to Web Content Accessibility Guidelines (WCAG) 2.2 has never been easier.

ACQUIA OPTIMIZE: WEBSITE OPTIMIZATION & COMPLIANCE TOOLS

Acquia Optimize empowers government organizations to maintain accessible, high-quality websites that comply with WCAG 2.1 standards and other international accessibility regulations, such as ADA, Section 508, and EN 301 549. Its accessibility tools identify and address web issues, providing actionable recommendations to enhance user experiences for all. Acquia Optimize's content policies module ensures consistency and accuracy by scanning for content errors or violations of brand, regulatory, or industry standards. The quality assurance tools detect and fix broken links, images, misspellings, and other issues that could hinder navigation or usability. Additionally, the data privacy module scans for sensitive information, prioritizes high-risk violations, and helps organizations reduce privacy risks. Together, these features enable government organizations to deliver inclusive, reliable, and secure digital services.

CIVICPLUS CHATBOT POWERED BY FRASE

CivicPlus Chatbot is designed to convincingly simulate the way a human would behave during a customer service interaction. Our advanced technology combines the power of site search and artificial intelligence (AI) to deliver exceptional customer experiences to residents using your website. Our Chatbot crawls your website and other linked databases to create a continually, automatically updated, AI-powered knowledgebase that you don't have to maintain separately.

PLATFORM IDENTITY PROVIDER (IDP) INTEGRATION

CivicPlus offers IdP integration capabilities, which means you'll benefit from easier integration between your Web Central Starter website and your favorite third-party solutions. Provide single sign-on (SSO) functionality to streamline managing and supporting user credentials and identify management solutions. CivicPlus IdP partners include Microsoft's Entra ID, Microsoft's Active Directory Federation Services (AD FS) versions 3.0, 4.0, and 5.0, and Okta.

STANDARD DEPARTMENT HEADER PACKAGE

A department or division within your organization may need a personalized digital presence. A Department Header Package is a cost-effective way for these groups to differentiate themselves informatively and graphically from the look of the main website while still benefiting from the functionality, service, and support of your Web Central Starter system. Unique customizations include:

- Department-specific URL
- Separate SSL Certificate / DNS & Hosting
- Department Logo
- Global Navigation and Menus
- Banner Image(s) and/or Slideshow Image(s) (if applicable)
- Graphic Links
- Widget Content

BANNERS

A cost-effective way to bring a different look to specific pages or departments is by placing a unique banner image on those pages. Each banner can rotate through as a slide show.

CIVICPLUS MARKETPLACE APP

The CivicPlus Marketplace App is a fully configurable mobile application that serves as a centralized digital hub for community engagement across all CivicPlus solutions. Offering residents convenient access to your agency's information and services, as well as native SeeClickFix 311 CRM starter functionality, the app enhances transparency, service accessibility, and community satisfaction by serving as a mobile gateway to essential services and civic resources.

Our app offers extensive customization options, allowing agencies to configure branding, buttons, and links in real time to maintain brand consistency and enhance the user experience with over 300 configurable icons. It integrates seamlessly with CivicPlus solutions, including SeeClickFix 311 CRM, municipal websites, and mass notifications, providing a unified platform for streamlined engagement. The app improves service visibility and trust by enabling quicker responses to resident concerns and supports diverse community needs, from reporting issues to registering for classes. Additionally, its multi-jurisdictional capabilities allow residents to engage across neighboring areas while offering agencies control over displayed branding and information.

UPGRADE TO PLATINUM SECURITY

CivicPlus' Platinum Hosting and Security package comes with enterprise-level Cloudflare software and:

- Fully customized Web Application Firewall (WAF), customized for our application
- OWASP ModSecurity Core Rule Set protects you against the Top 10 vulnerabilities identified by the Open Web Application Security Project (OWASP), such as SQL injection (SQLi) and cross-site scripting (XSS) attacks
- User agent blocking

- Block or challenge visitors by IP address, autonomous system number (ASN) or country code
- Reputation-based threat protection and collective intelligence (CI) to identify new threats

CONSULTING ENGAGEMENT

Implementing a new software solution is a huge undertaking. Not only does it touch every department in your organization, it has the potential to positively impact the end-users in your community. Sometimes getting to that positive end point is tough with incongruent agendas from stakeholders such as elected officials and department heads. CivicPlus consulting helps your organization do the heavy-lifting, starting with data-driven research and ending with service-level process optimization. We'll help you facilitate the tough conversations and guide you to set realistic timelines and tasks for implementation as well as assist you in setting goals and sustainment plans for your launch and beyond.

CREDIT CARD PROCESSING WITH CIVICPLUS PAY

CivicPlus Pay (Pay) is our integrated, secure, PCI-compliant, utility application. Pay acts as the connector to facilitate a transaction between the CivicPlus solution and the selected payment gateway. CivicPlus has partnered with several integrated gateways which we can assist with the facilitation, set-up, support, and troubleshooting services. Pay can also integrate with many other supported gateway providers in addition to our partner network, in a more limited fashion, to assist you in developing a successful system. To utilize any of the approved gateways, an agreement will need to be executed directly between you and the vendor, that will assess separate merchant account and transaction fees. Additional information can be provided upon request.

Because EMV and Card-Swipe devices are encrypted specifically for individual payment gateways, you'll need to procure any required devices directly from your selected gateway provider for either purchase or rent.

Invoicing Details

- 100% of Year 1 cost upon contracting.
- Annual recurring services shall be invoiced on the start date of each renewal term.
- Annual recurring services shall be subject to a 5% annual increase beginning in year 2 of service.
- All invoices are due within 30 days of the date of such invoice.

If the payment terms noted above does not meet your needs, please discuss with us so that we can try to accommodate your goals.

Disclaimer

PROPOSAL AS NON-BINDING DOCUMENT

A successful project begins with a contract that meets the needs of both parties. This proposal is intended as a non-binding document, and the contents hereof may be superseded by an agreement for services. Its purpose is to provide information on a proposed project we believe will meet your needs based on the information available. If awarded the project, CivicPlus reserves the right to negotiate the contractual terms, obligations, covenants, and insurance requirements before a final agreement is reached. We look forward to developing a mutually beneficial contract with you.

rebel river creative
where imagination flows

Professional Marketing Services Proposal

01.09.26

prepared for
Andrew Lehr
Alex Edwards
City of Hardin

project
Professional Marketing Services

1-9-2026

Andrew Lehr
Alex Edwards
City of Hardin
406 N Cheyenne
Hardin, MT 59034

Re: Website

Dear Andrew and Alex,

The City of Hardin's website is a key communication tool for residents and visitors. It provides access to public information, services and updates, and plays an important role in how the City is experienced online. The current website is limited by outdated technology and security concerns, which makes it difficult for City staff to manage content efficiently and for users to find information easily.

Rebel River Creative is proposing website services that address these challenges while allowing flexibility based on budget and long-term goals. This approach is intended to improve the website now while supporting future enhancements over time.

Before we begin working on a new project for a client, our professional guidelines recommend that we issue a Letter of Engagement detailing the scope of work and the project deliverables. This is also an opportunity to address our fees and billing practices.

SCOPE OF WORK

To support the City's immediate needs and future plans, Rebel River Creative is providing options for two website projects. These options are designed to provide flexibility, allowing the City to select the approach that best aligns with current priorities and available funding.

Option 1: Website Migration to WordPress

This option focused on improving the stability and security of the existing website by migrating current content into a modern WordPress content management system. The goal is to preserve existing information while creating a more manageable platform for ongoing updates. This migration will also address security concerns throughout the website. This approach is well suited for addressing immediate technical and security concerns and creating a foundation for future updates, though it maintains the website's current structure, content and design.

Option 2: Full Website Redevelopment

This option provides a fully planned and thoughtfully developed website that is designed to serve the City long term. Rather than working within the limitations of the current site, this approach allows the website to be strategically structured from the ground up, with content, navigation and design intentionally developed to support both public use and internal maintenance.

A full redevelopment significantly reduces the ongoing burden on the City staff by delivering a website that is easier to update, clearer to navigate and aligned with modern standards. While this option requires a larger upfront investment, it minimizes the need for ongoing fixes, workarounds and incremental updates. The result is a more sustainable website that supports the City's operations and communications well into the future.

DELIVERABLES

Option 1: Website Migration to WordPress

- Migration of existing website content and design into WordPress
- Setup and configuration of the WordPress content management system
- Preservation of current site structure and navigation
- Secure hosting environment and platform updates
- Mobile responsiveness supported by the WordPress framework

Option 2: Full Website Redevelopment

- Discovery and Project Brief
- Strategic site architecture and navigation development
- Content organization and refinement to improve usability
- Custom visual design that reflects the City of Hardin
- Mobile-responsive website development
- Accessibility-conscious development aligned with current standards
- WordPress content management system configured for City staff use
- Training documents and video for staff
- Website launch support and transition to live hosting

Hosting Deliverables

- Cloud-based WordPress hosting optimized for speed and stability
- SSL encryption and HTTPS protection
- Dedicated, containerized hosting, no shared-server risks
- Global Edge Security
- 24/7/365 uptime monitoring
- Daily full-site backups
- Free malware detection and removal
- Smart Plugin Manager: Automated plugin updates with real-time visual testing for a smoother safer update process

RECOMMENDED PROJECTS

While not required to move forward with the website, the following projects are strongly recommended to support a more cohesive and effective digital presence. These elements ensure the website is not only functional, but also clearly communicates who the City of Hardin is and how it serves its community.

Visual Brand Development
Visual brand development creates a consistent and recognizable look that can be applied across the website and other City communications. This work helps ensure the website feels intentional and unified, rather than assembled over time.

Deliverables include:

- Logo development with three design options for review and selection
- Defined color palette and font system
- Supporting graphic elements for digital use
- Stylescape demonstrating how visual elements work together
- Brand guide documenting logo usage, colors, fonts and graphic standards

This visual foundation supports consistency across the website and can be used for future materials as needed.

Brand Messaging Development
Brand messaging establishes how the City communicates, ensuring clarity and consistency across digital channels. This work defines not only what the City says, but how it says it, making content easier to create and more effective for staff to manage over time.

Deliverables include:

- Defined brand voice, tone and tenor
- Unique value proposition and brand essence
- Brand positioning framework
- Messaging examples tailored for website content
- Sample language for social media and email communications

These messaging tools provide practical guidance that City staff can use when creating or updating content, reducing uncertainty and maintaining consistency.

OUR PROCESS

Rebel River Creative follows a structured and collaborative process to ensure clarity throughout the project. Work begins with discovery and planning, followed by design and development. City feedback is incorporated at defined milestones, allowing alignment without requiring staff to manage day-to-day execution. This approach results in a smoother process and a more sustainable website solution.

INVESTMENT*

One Time Licensing Fees:	
WP Bakery Lifetime Website License	$52.50
Annual Fees:	
Domain Management	$30/year/domain
Website Hosting	$500/year
Optional: ADA Accessibility Tool***	$490/year
Option 1: Website Migration to WordPress	$4,950
Option 2: Full Website Redevelopment	$23,966.25
Recommended Projects	
Visual Brand Development	$7,095
Brand Messaging Development	$1,980

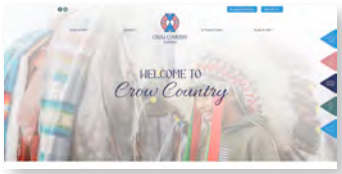
*This estimate is based on historic charges for similar projects and is our best estimate based on the information provided by you in our initial meeting. We base project cost on estimated number of hours to complete. Please note that while we do not anticipate any cost overruns, final costs are determined and impacted by the involvement of the client, the degree of complexity, and number of revisions.

**The Americans with Disabilities Act (ADA) requires certain businesses to make accommodations for people with disabilities. Web content should be accessible to blind users, deaf users and those who must navigate by voice, screen readers or other assistive technologies. Businesses that fall under Title I, those that operate 20 or more weeks per year with at least 15 full-time employees; or Title III, those that fall under the category of "public accommodation," are covered by the ADA. For more information, visit Guidance on Web Accessibility and the ADA | Beta.ADA.gov

websites

Carbon County, MT
https://carbonmt.gov

Crow Country Tourism
https://www.visitcrowcountry.com



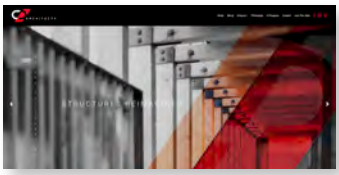
RiverStone Health
https://riverstonehealth.org

website platform update

Shiloh Medical Clinic
https://shilohmedicalclinic.com

Marketing Montana Real Estate
https://marketingmontana.com

Collaborative Design Architects
https://www.cd-mt.com



Happy Homes Apartments
https://www.happyhomesapartments.com

Beartooth Vision Center
https://beartoothvision.com

Thank you for placing your trust in us. The team at Rebel River is committed to providing an excellent client experience and extraordinary work.

Sincerely,

Bonnie Ramage
Senior Sales Executive/Partner
Rebel River Creative

My signature below indicates that I have read this letter and understand and accept the terms of the agreement.

Signature: _____ Date: _____

Name (Print): _____ Title: _____

If you wish to opt out of the Accessibility feature, please complete the following. If this is left blank, this means the client agrees to be invoiced for the Accessibility feature. This is an annual fee invoiced to the client.

Non-Acceptance of Americans with Disabilities Act (ADA) Website Accommodations

I, _____ [name], the _____ [title] of _____ _____ [name of business, "Client"] hereby decline adding ADA accommodations as part of the deliverables for the website project being developed by Rebel River Creative.

Client shall release, acquit, and forever discharge Rebel River Creative LLC and its members, managers, and employees from any and all claims, actions, causes of action, demands, rights, damages, costs, and expenses that client may have or assert against Rebel River Creative LLC for its failure to design for client a website that is compliant with the requirements of the Americans with Disabilities Act.

Dated this _____ day of _____, 20____.

City of Hardin

_____

SMALL PRINT

PRODUCT OWNERSHIP
The City of Hardin will own all original creative materials generated by Rebel River Creative, including custom photography, videography and illustrations, if applicable.

The following summarizes our billing procedures, terms + conditions:

For project work, we follow a Progress Invoicing Schedule:

Option 1: Website Migration to WordPress
- **Paid in Full prior to website migration**

Option 2: Full Website Redevelopment

- **50% due upon signing the Letter of Engagement**
- **25% due upon completion of prototypes**
- **25% due upon completion of Beta**

- **Hourly Rate.** Our hourly rate is $165. We review rates annually and will advise clients 30 days in advance of any rate changes.
- **Time + Charges.** We bill monthly for time and charges which have been posted as of the end of the previous month.
- **We bill in increments of ¼ of an hour.** Because much of our work is conducted over the phone, via video conference and email, please note we do bill for relevant phone calls, video conferences, multi-party conferences and emails.
- **Retainers.** Retainers shall be paid in advance on the first of each month.
    - A client must notify Rebel River Creative 30 days in advance of an intent to cancel the retainer.
    - If for any reason, the retainer is cancelled by the client prior to the agreed term, all completed work will be re-rated at our regular hourly rate and client agrees to pay the difference. This will include all work completed through the date of cancellation.
- **Change Orders and Scope Modifications.** This Letter of Engagement is based on a clearly defined scope of work, as outlined in this proposal. Any modifications, additions, or deletions to the original scope at any point during the term of the agreement must be formally acknowledged through a written Change Order. A Change Order will outline the revised scope of work and will include any resulting adjustments to the project timeline and/or the estimated costs. Work outside the original scope will not commence until the Change Order has been reviewed and approved by both parties. We reserve the right to revise project timelines and fees to reflect any such changes in scope.
- **Pausing a Project.** If, for any reason, this project is cancelled or paused by the client, the client forfeits the deposit and is responsible for any expenses we incur as a result of cancelling or pausing the project. Pausing a project longer than 3 weeks and restarting a project will result in a fee of 10% of the total investment. This is in addition to the total investment of the project.
- **Stock Images.** We bill for stock photography used in projects at cost plus 25%.
- **Custom Photography + Videography.** Custom photo + video shoots are billed at $180/hour. Studio rental fees, photo stylists, props, site access fees and other related charges are in addition to the hourly rate and are billed at cost plus 25%.

- **Custom Illustration.** Custom illustration work is billed at $180/hour.
- **Third Party Costs.** We bill for other charges such as music licensing, printing, volume mailings (direct mail pieces), email newsletters and digital communications, website licensing, and other third-party services at cost plus 25%.
- **Out of Town Travel.** Out-of-town travel is charged at standard IRS rates plus our standard hourly rates. Unless prior arrangements are made, we do bill for our travel time unless the travel is by common carrier and outside normal working hours.
- **Website Development Change Order.** All website development quotes submitted are “do not exceed” pricing based on the defined scope of work. We expect changes, feedback and small updates. Should the development scope of work expand by client request, a written change order is required to move forward with work. Rebel River Creative will not perform any unauthorized work. Any major out of scope design or in-depth functionality changes are simply charged at our hourly rate of $165 an hour.
- **“Locked” Websites.** For website development: Five days after the go-live date the website project is considered locked. Changes after 5 days will be billed at our standard hourly rate.
- **Platform Updates.** Platform updates are live upon launch. Any changes will be invoiced at our hourly rate.
- **Annual Fees.** Domains, Hosting and Accessibility will automatically renew each year and the client will be invoiced unless a cancellation is made in writing 30 days prior to the anniversary date.
- **Domains + Hosting.** Domain(s) must be managed with RRC if we are hosting the website.
- **Terms + Conditions.** Terms + Conditions may be found at: https://www.rebelrivercreative.com/website-hosting-terms-of-service/
- **Revisions.** Project work such as Stylescapes, prototype, signage/environmental graphics, logo development, collaterals, publications, video, etc., include one set of revisions. Additional revisions will be charged at our hourly rate.
- **Cost Estimates.** Cost estimates in this proposal are valid for 30 days.
- **Payment Terms.** Payment is due upon receipt of invoice. Outstanding balances are due upon receipt. Any outstanding balances not paid within thirty (30) days will accrue an annual finance charge of fifteen percent (15%) compounded monthly from the date due until paid. All past due accounts submitted for collection will be subject to all expenses including without limitation collection fees and/or attorney’s fees.

CITY OF HARDIN WEBSITE ESTIMATE

12/30/2025

Thank you for considering Zee Creative for your website project. This estimate outlines the proposed scope of work, costs, and optional services. Please review carefully and let us know if you have any questions or adjustments.

YOUR PROJECT

Zee Creative will redesign the current website, hardinmontana.info, with a new responsive WordPress-based website that will utilize content from the existing website and follow the organization and features outlined below.

WEBSITE FEATURES/HIGHLIGHTS

- Custom designed multiple template WordPress website that is mobile friendly (responsive)
- Scalable design that can grow with you
- Update content such as text, photos, links and pages. Ability to add images, videos (via YouTube and Vimeo), links and documents into pages
- Includes CMS training (up to 1 hour)

WORK OUTLINE

WordPress, it's plugins, as well as any custom coding for the site will be in PHP and MYSQL for the Linux hosting platform. All pages are assumed to be "Standard Pages" (standard WordPress default pages) unless otherwise specified.

LEGEND (NOTE: ALL PAGES IN THE SITEMAP BELOW THAT ARE NOT COLOR CODED ARE ASSUMED TO BE BASIC TEXT/PHOTO LAYOUTS USING THE DEFAULT INTERIOR TEMPLATE)

	Template Pages with this color will use a specially formatted layout template to display content.

	Custom Programming Pages with this color will require custom programming beyond a layout template.
	Form Pages with this color will feature a form that can be submitted by your user.
	Ecommerce Pages with this color denotes special functionality related to Ecommerce

PAGES (SITEMAP BASED ON YOUR CURRENT/PROVIDED NAVIGATION)

- Home (Home Template)
- Animal Control
- Big Horn Tourism Breakthrough Project
- Building
- City Attorney
- City Council
    - Past Minutes
    - Recorded Meetings
- City County Planning Board
    - Housing Study of 2022
- City Courts
- Code Enforcement
- Economic Development
- Finance
- Landfill
- Local Government Review 2024
- Mayor
    - Past Mayors
- Police Department
- Public Works
- Utility Billing
    - Online Utility Pay
- Growth Management Plan
- City Codes
- Directory
- Employment
- Licenses
- Permits/Forms
- Public Notices (News Archive Template) (News Post)
- Map of Hardin
- Visitors Information
    - Nearby Attractions
    - Local Lodging

    - Local Restaurants
- Upcoming Hardin Events (Calendar Plugin)
- Bir Horn County Museum (3rd Party Site)
- Hardin Fun Facts
- Hardin History
- Hardin Extreme Days (3rd Party Site)
- Hardin Volunteer Fire Department (3rd Party Site)
- Photo Gallery
- Two Rivers Authority (3rd Party Site)
- Hometown Heroes
- Morrison Commendation
- Contact Us (Contact Form)

TASKS

- **Design**
    - Modernized and clean mobile responsive design
    - Client Provided Design Examples:
        - None currently provided
        - Must meet Accessibility Compliance WCAG 2.1 Level AA
- **Setup CMS**
- **Initial site setup** (pages/navigation/etc.)
- **Pre-Launch Accessibility Compliance Review (see note at end)**
    - Accessibility testing will be conducted using industry-standard automated tools aligned with WCAG 2.1 Level AA (https://wave.webaim.org/). While no automated tool can guarantee full compliance, this process reflects current best practices for accesibility-compliant municipal websites.

- **Custom functionality/programming needed**
    - News Post
        - Post Title
        - Post Content
        - Post Category
        - Post Date
        - Featured Image
    - Event Calendar Plugin
        - Basic User-Facing Demo: https://demo.theeventscalendar.com/
        - A fully functional, easily editable event calendar to intuitively display your programs and events
        - Includes both the calendar view and event detail views. Default styling of these will be adjusted to match your organization's branding.
        - Allows the admin the creation of events with the following information:
            - Event Name

- Event Category
- Date/Time
- Description
- Photo(s)
- Cost
- Organizer Contact
- Location/Venue
- Registration Link

- Includes the ability to sell tickets **via PayPal/Stripe** (2% commission fee plus standard payment processor fees)
- This base plugin is free to install on your site, but the following optional paid add-ons might potentially be of interest to you:
  - Event Calendar Pro
    - Adds ability to create automatically recurring events
    - Adds the ability for users to search by location
    - Adds virtual meeting integration (Zoom, Teams, etc)
    - Adds Youtube/Facebook Live livestream embed
    - $149/year
  - Community Submissions
    - Adds ability for users to submit events to your calendar
    - $129/year
  - Tickets Plus
    - Removes the 2% commission fee for tickets
    - Adds ability to add custom fields to your registration forms
    - $149/year
  - Community Manager Bundle
    - Includes Event Calendar Pro, Community Submissions, Tickets Plus, and Filter Bar Plugins
    - $399/year

- **Forms**
  - Contact Form
    - Name (*)
    - Email (*)
    - Phone
    - Message (*)
- **Build site templates needed to display the above content**
  - Default Interior Template
    - A default page layout template that will automatically display your editable content.
  - Home Template
    - A custom page layout template specifically for your homepage that will automatically display calls to action for important parts of your site
  - News Archive Template
    - A custom page layout template that will automatically display the summaries of all News Posts in a specially formatted archival view.
    - Summaries will be filterable by both date and category

        - Clicking on a summary will take the user to a page with full details for that News Post
    - News Detail Template
        - A custom page layout template that will automatically display the full details for a News Post in a specially formatted view.

Accessibility notes:

We will review the website using the WAVE accessibility testing tool (https://wave.webaim.org/) and will make commercially reasonable efforts to address identified errors and applicable warnings. Our work will follow generally accepted best practices intended to support accessibility under the Web Content Accessibility Guidelines (WCAG) 2.1, including considerations for screen reader compatibility and keyboard navigation.

Any documents provided for inclusion on the website, including but not limited to PDFs, Word files, or other file formats, must be supplied in an accessibility-compliant format. Remediation of third-party or client-provided documents is not included unless expressly stated in writing.

While we take reasonable steps to support accessibility, we do not guarantee full compliance with WCAG 2.1 or any other accessibility standard in all circumstances. Accessibility compliance will be evaluated based on the condition of the website at the time of launch. Following launch, the client is solely responsible for ensuring that all content added, edited, or maintained on the website continues to meet applicable accessibility requirements.

ESTIMATE: $8880

Cost is based on a total project time (including meetings, design, programming, content entry, testing and review) not to exceed 74 hours.

WEB HOSTING

WordPress is a great solution for building and maintaining websites but it does require consistent maintenance to stay secure and running smoothly.

MANAGED WORDPRESS HOSTING - $330/YEAR

Scalable, WordPress-specific, cloud-based hosting. Includes a 30-day money back guarantee, Free SSL, 99.99% uptime guarantee, up to 2 GB of storage, 20 GB of transfer/month, and more.

- **This is our "We Handle It" plan.** If you are not comfortable with maintaining and securing WordPress or just would rather have us take that responsibility off your hands, this is the plan for you. With this plan, we do block access to areas of the WordPress admin for security reasons.
- We take care of your WordPress updates, maintenance releases, major releases, plugins, theme updates, backups and more at a set yearly cost.
- Much less cost and worry than having a developer fix a broken site after the fact
- WordPress-specific hosting platform that increases security and site performance
- Daily backups with offsite archival backups with major updates
- Web Security
    - **Zee's Site Security Promise** (if, in the unlikely event, your site gets hacked we will restore it or repair it)
    - Custom Zee Creative security measures
    - WordPress hardening
- Full hosting policies can be viewed here - https://zcreative.com/policies-legal-agreements/#hosting

OPTIONAL DIGITAL MARKETING SERVICES OVERVIEW

Zee Creative also offers marketing services to help grow your online presence. These are **optional** and billed separately from your website estimate.

- **Search Engine Optimization (SEO):** Improve visibility and search rankings.
- **Content Marketing & Blogging:** Ongoing, relevant content for your brand.
- **Email Marketing:** Targeted email campaign design and management.
- **Social Media Management:** Content planning and posting.
- **Online Advertising:** Campaigns on Google Ads, Facebook Ads, and more.

If interested, we will provide a separate proposal tailored to your goals and budget.

GENERAL TERMS

This estimate is valid for 30 days from today (12/30/2025)

Scope – This estimate covers only items listed. Additions may change cost and timeline.

Payment – **$4440** due at project start. Hosting, domains, and digital marketing are billed separately. Balance is invoiced as work progresses. Final deliverables released after full payment. Invoices are **Net 30** and sent via email; late accounts may incur late fees, paused work, or removals.

Timeline – Start and completion depend on payments, client feedback, and materials. No fixed completion is guaranteed. As of **December 30, 2025,** lead time to start new projects is **2-3 weeks** (valid 14 days; confirm if later). Terms expire after **180 days**; delays caused by client may require a new estimate or hourly billing.

Client Content – Client warrants rights to all provided artwork, text, photos, code, and data.

Standards – Work is compatible with current mainstream browsers. Accessibility (e.g., ADA) is excluded unless noted. Future compatibility updates are billed separately.

Code & Licensing – All work remains Zee Creative's property until paid in full. After payment, client has usage rights for the agreed project. Proprietary tools and third-party software remain subject to their own licenses.

Agreement – Signing this estimate confirms acceptance of these terms and Zee Creative's full policies, which can be viewed at zcreative.com/policies-legal-agreements.

AUTHORIZATION TO COMMENCE WORK

By signing this document, both parties agree to the scope, costs, timeframe, and review structure outlined in this estimate. The client acknowledges that any requested changes to the scope may result in adjustments to costs and timeframe.

Because this estimate involves ongoing services, both parties agree to make all reasonable efforts to work in a timely and effective manner. The client acknowledges that Zee Creative's ability to meet any timeframe depends on:

1. Timely payment,
2. Availability of third-party resources, and
3. Other events beyond Zee Creative's control.

To begin work on this proposal, please submit your initial payment of $4440 and return a signed copy of this estimate to us. We do accept Visa, MasterCard, AMEX and Discover for online payments at https://zcreative.com/make-a-payment/.

By signing, the client also confirms agreement with the terms in this estimate and acknowledges Zee Creative's full Terms of Service and policies at https://zcreative.com/policies-legal-agreements/.

CITY OF HARDIN CLIENT AUTHORIZATION

Client Name:

Title/Position:

Company:

Signature:

Date:

Notice of Confidentiality - The contents of this estimate are confidential and proprietary to Zee Creative, Inc. Receipt and review of this estimate constitutes acknowledgment that the contents are Zee Creative's confidential and proprietary information. You agree not to disclose this information to anyone outside your organization, except those who need to review it for the purpose of evaluating a possible business relationship with Zee Creative.

Website Comparision

Description	Revize	CivicPlus Premium	CivicPlus Standard	Rebel River Redevelopment	Rebel River Migration	Zee Creative
Implementation - One Time Fees						
Kickoff, Discovery, Development (not RRM), Go Live	$ 9,700.00	$ 1,700.00	$ 850.00	$ 5,002.50	$ 24,018.75	$ 8,880.00
OT Implementation Fee Total	**$ 9,700.00**	**$ 1,700.00**	**$ 850.00**	**$ 5,002.50**	**$ 24,018.75**	**$ 8,880.00**
Annual Fees						
Technical Support, License, Hosting	$ 2,600.00	$ 5,772.00	$ 4,664.00	$ 1,020.00	$ 1,020.00	$ 330.00
Annual Fee Total	**$ 2,600.00**	**$ 5,772.00**	**$ 4,664.00**	**$ 1,020.00**	**$ 1,020.00**	**$ 330.00**
Optional Add Ons - Implementation - One Time						
Accessibility Enhancement	$ -	$ 500.00	$ 500.00			
48 Month Redesin Fee	$ -	$ 250.00	$ 250.00			
	$ -					
OT Optional Add Ons Total	**$ -**	**$ 750.00**	**$ 750.00**	**$ -**	**$ -**	**$ -**
Optional Add Ons - Annual						
Various Modules	$ -	$ 2,800.00	$ 2,800.00			
Accessibility Enhancement	$ -	$ 2,500.00	$ 2,500.00			
Event Calendar Pro						$ 149.00
Community Submissions						$ 129.00
Annual Optional Add Ons Total	**$ -**	**$ 5,300.00**	**$ 5,300.00**	**$ -**	**$ -**	**$ 278.00**
Costs						
Recurring Annual Total	$ 2,600.00	$ 11,072.00	$ 9,964.00	$ 1,020.00	$ 1,020.00	$ 608.00
One-Time Fees	$ 9,700.00	$ 2,450.00	$ 850.00	$ 5,002.50	$ 24,018.75	$ 8,880.00
Annual Fee with Payment Option	$ 1,940.00	0				
Yearly Costs						
Total Year 1	$ 4,540.00	$ 13,522.00	$ 11,564.00	$ 6,022.50	$ 25,038.75	$ 9,488.00
Total Year 2	$ 4,540.00	$ 11,072.00	$ 9,964.00	$ 1,020.00	$ 1,020.00	$ 608.00
Total Year 3	$ 4,540.00	$ 11,072.00	$ 9,964.00	$ 1,020.00	$ 1,020.00	$ 608.00
Total Year 4	$ 4,540.00	$ 11,072.00	$ 9,964.00	$ 1,020.00	$ 1,020.00	$ 608.00
Total Year 5	$ 4,540.00	$ 11,072.00	$ 9,964.00	$ 1,020.00	$ 1,020.00	$ 608.00
5 Year Sum	$ 22,700.00	$ 57,810.00	$ 51,420.00	$ 10,102.50	$ 29,118.75	$ 11,920.00

Executive Summary

I. Websites

The City evaluated six website options across four vendors:

- Revize
- CivicPlus (Standard and Premium tiers)
- Rebel River Creative (Migration and Redevelopment options)
- Zee Creative

The review process included live platform demonstrations, reference checks, comparison of Montana municipal usage, and evaluation of cost structure, compliance tools, and long-term sustainability.

II. Evaluation Criteria

Staff focused the evaluation on the following priorities:

1. Fiscal responsibility
2. Government-specific functionality
3. Accessibility and ADA compliance
4. Long-term maintenance and support
5. Payment flexibility

III. Platform Overview

Revize and CivicPlus provide proprietary content management systems designed specifically for municipal governments. These platforms include built-in tools for ADA compliance, records retention, workflow approvals, and structured department management. Rebel River and Zee Creative utilize WordPress-based systems. While flexible and design-focused, these platforms require more ongoing oversight to ensure security updates, compliance monitoring, and long-term sustainability.

IV. Key Differentiators

Government Experience:

Revize and CivicPlus specialize exclusively in municipal websites nationwide, including communities comparable in size to ours.

Accessibility & Compliance:

Revize includes built-in accessibility monitoring and compliance tools specifically designed for public sector risk mitigation.

Support & Hosting:

Revize provides structured government hosting, security monitoring, backups, and dedicated municipal support teams.

Payment Structure:

Revize is the only vendor that allows the total project cost to be structured over a five-year payment plan. The remaining vendors require significantly more front-loaded payment. This payment flexibility reduces immediate budget impact while allowing the City to move forward with a comprehensive platform solution.

V. Staff Recommendation

After reviewing all options, City staff recommend selecting **Revize** as the City's new website platform.

Revize offers:

- A government-specific CMS built for municipalities
- Built-in ADA and accessibility compliance tools
- Structured workflows and department management
- Dedicated municipal hosting and security
- **A five-year payment structure that aligns with budget planning**

While other vendors provided viable options, Revize presents the strongest balance of compliance protection, municipal specialization, long-term sustainability, and fiscal flexibility.

Website Comparision

Description	Revize	CivicPlus Premium	CivicPlus Standard	Rebel River Redevelopment	Rebel River Migration	Zee Creative
Platform Type	Proprietary Government CMS	Proprietary Government CMS	Proprietary Government CMS	WordPress	WordPress	WordPress
Montana Experience Identified	High	High	High	Medium	Medium	Low
Scope of Service						
Full Redesign	Yes	Yes	Yes	Yes	No	Yes
Content Migration	Yes	Yes	Yes	Yes	Yes	Yes
Accessibility & Compliance						
WCAG Support	Yes	Yes	Yes	Yes	Yes	Yes
ADA Tools	Yes	Yes	Yes	Yes	Yes	Yes
Support & Hosting						
Hosting Included	Yes	Yes	Yes	Yes	Yes	Yes
Security Monitoring	Yes	Yes	Yes	Yes	Yes	Yes

While the platforms evaluated generally offer similar outward-facing website capabilities, there is a significant distinction between proprietary government content management systems and WordPress-based solutions.

Revize and CivicPlus operate proprietary platforms designed specifically for municipal governments. These systems are built with integrated compliance tools, structured workflows, and accessibility monitoring aligned with current and upcoming ADA requirements. Platform updates, security patches, and system maintenance are managed internally by the vendor as part of the service.

In contrast, Rebel River Creative and Zee Creative utilize WordPress-based systems. While these platforms offer flexibility, ongoing WordPress core updates, plugin maintenance, and security management require continued oversight. Although these firms offer update management services, it is provided for an additional fee and remains dependent on third-party software updates.

This distinction represents a key consideration in long-term risk management, compliance responsibility, and total cost of ownership.

AIA® Document B133® – 2019

Standard Form of Agreement Between Owner and Architect, *Construction Manager as Constructor Edition*

AGREEMENT made as of the Seventeenth day of February in the year Two Thousand Twenty-Six
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address, and other information)

City of Hardin
406 North Cheyenne Avenue
Hardin, Montana 59034

and the Architect:
(Name, legal status, address, and other information)

CTA Inc. dba Cushing Terrell
PO Box 1439
Billings, Montana 59103

for the following Project:
(Name, location, and detailed description)

Hardin Visitor Information Center
928 North Mitchell Avenue
Hardin, Montana 59034

The Construction Manager (if known):
(Name, legal status, address, and other information)

Langlas & Associates, Inc.
2685 Gabel Road
Billings, Montana 59102

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A201–2017™, General Conditions of the Contract for Construction; A133–2019™ Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price; and A134–2019™ Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price. AIA Document A201™–2017 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

See attached Exhibit A – Preliminary Program of Spaces

§ 1.1.2 The Project's physical characteristics:
(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

The Project will occupy a city owned parcel of 2.28 acres for a 1,040 square foot facility including a welcome desk, restrooms and support services. The property is bound by North Mitchell Avenue to the southeast and Vanzandt Road to the north. Legal description of the property is as follows: S23, T01 S, R33 E, ACRES 2.28, TRIANGULAR TRACT IN NE4NW4. Geotechnical report will be provided by SK Geotechnical as the Owner's consultant. Topographic survey has been completed by IMEG Consultants Corp. as the Architect's consultant under a previous agreement. Public utilities available for connection adjacent to the site.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:
(Provide total and, if known, a line item breakdown.)

Seven hundred twenty thousand thirty-eight dollars ($720,038)

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

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.1 Design phase milestone dates, if any:

Construction Documents - May 1, 2026

.2 Construction commencement date:

June 29, 2026

.3 Substantial Completion date or dates:

December 18, 2026

.4 Other milestone dates:

Not Applicable.

§ 1.1.5 The Owner intends to retain a Construction Manager pursuant to the following agreement:
(Indicate agreement type.)

[X] AIA Document A133–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.

[ ] AIA Document A134–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price.

§ 1.1.6 The Owner's requirements for accelerated or fast-track design and construction, or phased construction are set forth below:
(List number and type of bid/procurement packages.)

This Agreement is for Phase 1 of the project. Services for subsequent phases will be provided under future separate Agreements upon approval by the Owner to proceed.

§ 1.1.7 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

Not Applicable

(Paragraph deleted)
§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.4:
(List name, address, and other contact information.)

Alexandria Edwards, Project Manager
City of Hardin
406 North Cheyenne Avenue
Hardin, Montana 59034
Phone: 406.679.0028
Email: aedwards@hardinmt.com

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:
(List name, address, and other contact information.)

Not Applicable.

§ 1.1.10 The Owner shall retain the following consultants and contractors:

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(List name, legal status, address, and other contact information.)

.1 Construction Manager:
(The Construction Manager is identified on the cover page. If a Construction Manager has not been retained as of the date of this Agreement, state the anticipated date of retention. If the Architect is to assist the Owner in selecting the Construction Manager, complete Section 4.1.1.1)

Langlas & Associates, Inc.
2685 Gabel Road
(Paragraphs deleted)
Billings, Montana 59102

.3 Geotechnical Engineer:

SK Geotechnical
2511 Holman Avenue
PO Box 80190
Billings, Montana 59108-0190

(Paragraphs deleted)
406.652.3930

§ 1.1.11 The Architect identifies the following representative in accordance with Section 2.4:
(List name, address, and other contact information.)

Shannon Christensen
CTA Inc. dba Cushing Terrell
PO Box 1439
Billings, Montana 59103
Phone: 406.896.6126
Email: shannonchristensen@cushingterrell.com

§ 1.1.12 The Architect shall retain the consultants identified in Sections 1.1.12.1 and 1.1.12.2:
(List name, legal status, address, and other contact information.)

§ 1.1.12.1 Consultants retained under Basic Services:

.1 Structural Engineer:

Service Provided by Cushing Terrell

.2 Mechanical Engineer:

Service Provided by Cushing Terrell

.3 Electrical Engineer:

Service Provided by Cushing Terrell

§ 1.1.12.2 Consultants retained under Supplemental Services:

Civil Engineering by IMEG, 550 North 31st Street, Suite 111, Billings Montana 59101

§ 1.1.13 Other Initial Information on which the Agreement is based:

Conceptual and Schematic Design of the project completed by Architect under a separate Agreement.

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§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties may agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances on the same or similar projects ("Standard of Care"). The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall provide its services in conjunction with the services of the Construction Manager retained by the Owner as described in the agreement identified in Section 1.1.5. The Architect shall not be responsible for any actions, errors, or omissions of the Construction Manager.

§ 2.4 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.5 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.6 Insurance. The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.6.1 Commercial General Liability with policy limits of not less than one million dollars ($ 1,000,000.00) for each occurrence and two million dollars ($ 2,000,000.00) in the aggregate for bodily injury and property damage.

§ 2.6.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than one million dollars ($ 1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.6.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.6.1 and 2.6.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

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§ 2.6.4 Workers' Compensation at statutory limits.

§ 2.6.5 Employers' Liability with policy limits not less than one million dollars ($ 1,000,000.00) each accident, one million dollars ($ 1,000,000.00) each employee, and one million dollars ($ 1,000,000.00) policy limit.

§ 2.6.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than one million dollars ($ 1,000,000.00) per claim and two million dollars ($ 2,000.000.00) in the aggregate.

§ 2.6.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The Architect does not make any representations about the nature and/or extent of coverage provided by these policies and is not responsible for any coverage determination made by an insurance carrier.

§ 2.6.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.6.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner, the Construction Manager, and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner, the Construction Manager, and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit, for the Construction Manager's review and the Owner's approval, a schedule for the performance of the Architect's services. The schedule shall include design phase milestone dates, as well as the anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the Construction Manager's review, for the performance of the Construction Manager's Preconstruction Phase services, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. With the Owner's approval, which shall not be unreasonably withheld, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect's services. The Architect shall review and approve, or take other appropriate action upon, the portion of the Project schedule relating to the performance of the Architect's services.

§ 3.1.5 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming work, made or given without the Architect's written approval.

§ 3.1.6 The Architect shall, in coordination with the Construction Manager, contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.7 The Architect shall assist the Owner and Construction Manager in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

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§ 3.1.8 Prior to the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Architect shall consider the Construction Manager's requests for substitutions and, upon written request of the Construction Manager, provide clarification or interpretations pertaining to the Drawings, Specifications, and other documents submitted by the Architect. The Architect and Construction Manager shall include the Owner in communications related to substitution requests, clarifications, and interpretations.

§ 3.2 Review of the Construction Manager's Guaranteed Maximum Price Proposal or Control Estimate

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare, for the Owner's acceptance or approval, a Guaranteed Maximum Price proposal or Control Estimate. The Architect may assist the Owner in reviewing the Construction Manager's proposal or estimate. The Architect's review is not for the purpose of discovering errors, omissions, or inconsistencies; for the assumption of any responsibility for the Construction Manager's proposed means, methods, sequences, techniques, or procedures; or for the verification of any estimates of cost or estimated cost proposals. In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner and Construction Manager. Notwithstanding any other provision in this Agreement, the Architect does not make any representation regarding the accuracy of any Guaranteed Maximum Price proposal or Control Estimate. The Architect cannot and does not make any representations or guarantees about the actual cost of construction.

§ 3.2.2 Upon authorization by the Owner, and subject to Section 4.2.1.14, the Architect shall update the Drawings, Specifications, and other documents to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.

§ 3.3 Schematic Design Phase Services - Deleted

(Paragraphs deleted)

§ 3.4 Design Development Phase Services Deleted

(Paragraphs deleted)

§ 3.5 Construction Documents Phase Services

§ 3.5.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Construction Manager's review and the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Construction Manager will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.5.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.5.3 During the development of the Construction Documents, if requested by the Owner, the Architect shall assist the Owner and Construction Manager in the development and preparation of (1) the Conditions of the Contract for Construction (General, Supplementary and other Conditions) and (2) a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include sample forms.

§ 3.5.4 Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Construction Documents.

§ 3.5.5 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7, and request the Owner's approval of the Construction Documents.

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§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 If the Owner retains and compensates the Architect for Construction Phase Services, the Architect shall provide administration of the Contract between the Owner and the Construction Manager as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Construction Manager modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

§ 3.6.1.2 Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Owner's approval of the Construction Manager's Control Estimate, or by a written agreement between the Owner and Construction Manager which sets forth a description of the Work to be performed by the Construction Manager prior to such acceptance or approval. Subject to Section 4.2, and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.1.3 The Architect shall advise and consult with the Owner and Construction Manager during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Construction Manager's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Owner, the Construction Manager or of any other persons or entities performing portions of the Work, or any separate consultants retained by the Owner. The Architect is not responsible for the Construction Manager's failure to properly perform the Work.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or at times and intervals mutually agreed by the parties, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Construction Manager, and (3) defects and deficiencies observed in the Work. However, nothing in this Article §3.6.2 shall impose any liability on the Architect for failure to identify or discover deficiencies in the Contractor's Work. The Contractor remains solely and exclusively responsible for properly constructing the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents only if authorized by the Owner and only if actually discovered by the Architect. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Construction Manager, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Construction Manager. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Construction Manager, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

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§ 3.6.2.5 Unless the Owner and Construction Manager designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Construction Manager as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Construction Manager

§ 3.6.3.1 The Architect shall review and certify the amounts due the Construction Manager and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Construction Manager's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work generally is in accordance with the Contract Documents, and that the Construction Manager is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Construction Manager's right to payment, or (4) ascertained how or for what purpose the Construction Manager has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Construction Manager's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Construction Manager's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Construction Manager's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Construction Manager to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Construction Manager's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Construction Manager in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

.1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;

.2 issue Certificates of Substantial Completion;

.3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Construction Manager; and

.4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to (1) check conformance of the Work with the requirements of the Contract Documents and (2) verify the accuracy and completeness of the list submitted by the Construction Manager of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Construction Manager, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Construction Manager: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Construction Manager under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

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Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.1 Assistance with Selection of Construction Manager	Not Provided
§ 4.1.1.2 Programming	Not Provided
§ 4.1.1.3 Multiple Preliminary Designs	Not Provided
§ 4.1.1.4 Measured drawings	Not Provided
§ 4.1.1.5 Existing facilities surveys	Not Provided
§ 4.1.1.6 Site evaluation and planning	Not Provided
§ 4.1.1.7 Building Information Model management responsibilities	Not Provided
§ 4.1.1.8 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.9 Civil engineering	Architect
§ 4.1.1.10 Landscape design	Architect
§ 4.1.1.11 Architectural interior design	Architect
§ 4.1.1.12 Value analysis	Not Provided
§ 4.1.1.13 Cost estimating	Not Provided
§ 4.1.1.14 On-site project representation	Not Provided
§ 4.1.1.15 Conformed documents for construction	Not Provided
§ 4.1.1.16 As-designed record drawings	Not Provided
§ 4.1.1.17 As-constructed record drawings	Not Provided
§ 4.1.1.18 Post-occupancy evaluation	Not Provided
§ 4.1.1.19 Facility support services	Not Provided
§ 4.1.1.20 Tenant-related services	Not Provided
§ 4.1.1.21 Architect's coordination of the Owner's consultants	Not Provided
§ 4.1.1.22 Telecommunications/data design	Not Provided
§ 4.1.1.23 Security evaluation and planning	Not Provided
§ 4.1.1.24 Commissioning	Not Provided
§ 4.1.1.25 Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.26 Historic preservation	Not Provided
§ 4.1.1.27 Furniture, furnishings, and equipment design	Not Provided
§ 4.1.1.28 Site Survey	Architect

(Row deleted)

§ 4.1.1.29 Site Lighting	Architect

(Rows deleted)

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)

.1 Civil Engineering

Architect's Civil Engineering Consultant will provide a site plan for the Project which includes water and sewer service to the building, sized for full build out conditions, as well as 80% of the asphalt parking lot with a boulder pit for stormwater and concrete sidewalk. A set of civil construction plans adequate for permitting and construction including a site plan, grading plan and utility plan. Consultant will be included in design team meetings with Architect. Also included is bidding/negotiation support to answer bidder questions and construction administration including one round of shop drawing submittals. Consultant will visit the site during portions of the civil construction.

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.2 Landscape Design
Architect's Landscape Architect will provide planting and performance irrigation design for Phase 1 on-property and right-of-way areas, coordination with civil engineering on vehicular and pedestrian circulation and grading. Services will include electronic CADD files of Construction Documents and specifications incorporated into the Project Manual. Construction administration services include submittal review, responding to requests for information, and substantial completion punch list.

.3 Architectural Interior Design
Architect's Interior Designer will conduct meetings with Owner, propose design solutions and develop designs approved by Owner. Interior design documents will be integrated into the Construction Document package provided by Architect.

.4 Site Survey
Architect's Civil Engineering Consultant will conduct additional boundary surveying of the adjacent areas to accurately determine where boundary lines were intended to be.

. 5 Site Lighting
Architect's Electrical Engineer will provide interior and exterior lighting design incorporated into the Construction Documents.

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.
(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

Not Applicable

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

§ 4.2 Architect's Additional Services
The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

.1 Services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or bid packages in addition to those listed in Section 1.1.6;

.2 Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work, Guaranteed Maximum Price proposal, or Control Estimate exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes, or equipment;

.3 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;

.4 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;

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.5 Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
.6 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner- authorized recipients;
.7 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager;
.8 Preparation for, and attendance at, a public presentation, meeting or hearing;
.9 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
.10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
.11 Assistance to the Initial Decision Maker, if other than the Architect;
.12 Services necessitated by replacement of the Construction Manager or conversion of the Construction Manager as constructor project delivery method to an alternative project delivery method;
.13 Services necessitated by the Owner's delay in engaging the Construction Manager;
.14 Making revisions to the Drawings, Specifications, and other documents resulting from agreed-upon assumptions and clarifications included in the Guaranteed Maximum Price Amendment or Control Estimate; and
.15 Making revisions to the Drawings, Specifications, and other documents resulting from substitutions included in the Guaranteed Maximum Price Amendment or Control Estimate.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice:

.1 Reviewing a Construction Manager's submittal out of sequence from the submittal schedule approved by the Architect;
.2 Responding to the Construction Manager's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Construction Manager from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Construction Manager-prepared coordination drawings, or prior Project correspondence or documentation;
.3 Preparing Change Orders, and Construction Change Directives that require evaluation of the Construction Manager's proposals and supporting data, or the preparation or revision of Instruments of Service;
.4 Evaluating an extensive number of Claims as the Initial Decision Maker; or
.5 Evaluating substitutions proposed by the Owner or Construction Manager and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

.1 One (1) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Construction Manager
.2 Six (6) visits to the site by the Architect during construction
.3 One (1) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
.4 One (1) inspections for any portion of the Work to determine final completion

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within eleven (11) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

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ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall retain a Construction Manager to provide services, duties, and responsibilities as described in the agreement selected in Section 1.1.5.

§ 5.3 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect and Construction Manager. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3.1 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it associated risks. Such risks include the Owner incurring costs for the Architect to coordinate and redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Construction Manager to remove and replace previously installed Work. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

§ 5.4 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.5 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.6 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.7 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.8 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 5.9 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.10 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

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§ 5.11 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.12 The Owner shall provide prompt written notice to the Architect and Construction Manager if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.13 The Owner shall include the Architect in all communications with the Construction Manager that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.14 The Owner shall coordinate the Architect's duties and responsibilities set forth in the Agreement between the Owner and the Construction Manager with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Construction Manager, including the General Conditions of the Contract for Construction.

§ 5.15 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Construction Manager to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.16 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the Construction Manager's general conditions costs, overhead, and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the compensation of the Construction Manager for Preconstruction Phase services; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in the Initial Information, and shall be adjusted throughout the Project as required under Sections 5.3 and 6.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.

§ 6.3 The Owner shall require the Construction Manager to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the Construction Manager prepares as the Architect progresses with its Basic Services. The Architect shall prepare, as an Additional Service, revisions to the Drawings, Specifications or other documents required due to the Construction Manager's inaccuracies or incompleteness in preparing cost estimates, or due to market conditions the Architect could not reasonably anticipate. The Architect may review the Construction Manager's estimates solely for the Architect's guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

§ 6.3.1 The Architect is not providing cost estimating services.

§ 6.4 If, prior to the conclusion of the Design Development Phase, the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the Construction Manager, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.5 If the Construction Manager's estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall

- **.1** give written approval of an increase in the budget for the Cost of the Work;
- **.2** terminate in accordance with Section 9.5;

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.3 in consultation with the Architect and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or

.4 implement any other mutually acceptable alternative.

§ 6.6 If the Owner chooses to proceed under Section 6.5.3, the Architect, without additional compensation, shall incorporate the revisions in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect's revisions in the Construction Documents Phase shall be the limit of the Architect's responsibility under this Article 6.

§ 6.7 After incorporation of modifications under Section 6.6, the Architect shall, as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by the Construction Manager's subsequent cost estimates, the Guaranteed Maximum Price proposal, or Control Estimate that exceed the Owner's budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due, pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Construction Manager, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding

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dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, or other similar insurance applicable to the Work, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The parties have reviewed and analyzed the relatives risks and benefits of the Project to both the Owner and the Architect, and have agreed to allocate the risks such that the Owner agrees to limit the Architect's liability to all parties, including the Owner, so that the total aggregate liability of the Architect and the Architect's officers, directors, partners, employees, shareholders, and owners shall not exceed the total compensation as identified within Article 12 or in limit of insurance listed in §2.6.6, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law. The Owner acknowledges that it has had the opportunity to discuss and consider the possibility of a higher limit of liability in return for an increased fee paid to the Architect and has determined that the liability limit set forth above is appropriate. The Architect shall not be liable to the Owner, Owner's employees, consultants, contractors, subcontractors, agents, or any other third parties for special, incidental, or consequential, or penal losses or damages (including but not limited to anticipated profits, lost profits and/or loss of use of the project or site that is the subject of this Agreement) under any circumstances

§ 8.1.4 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:
(Check the appropriate box.)

[ ] Arbitration pursuant to Section 8.3 of this Agreement

[**X**] Litigation in a court of competent jurisdiction

(Paragraphs deleted)

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If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

§ 8.3 Arbitration—Deleted

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7
(Paragraphs deleted)
Deleted.

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction, except as modified in this Agreement. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. During the term of this Agreement and following its expiration or termination for any reason, neither Owner nor Architect shall transfer, assign, convey or sublet any right, claims (including any causes of action or claims

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alleging breach, negligence, loss or damages arising out of this Agreement), duty or obligation under it, nor any other interest therein, without the prior written consent of the other party The sole exception to this provision is that the Owner may assign this Agreement to a lender providing financing for the Project if and only if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect. There are no intended third-party beneficiaries of this Agreement.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

.1 Stipulated Sum
(Insert amount)

Seventy Nine Thousand Two Hundred and Four ($79,204)

(Paragraphs deleted)

.3 Other
(Describe the method of compensation)

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§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

.1 Civil Engineering – Stipulated Sum of $29,172.
.2 Landscape Design – Stipulated Sum of $8,500.
.3 Interior Design – Stipulated Sum of $4,600.
.4 Site Survey – Stipulated Sum of $3,444
.5 Site Lighting – Stipulated Sum of $3,000.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

Hourly based on the Architect's Standard Rates for the year in which time is expended.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus
(Paragraphs deleted)
twenty percent (20 %).

(Paragraph deleted)
(Table deleted)
(Paragraph deleted)
§ 11.6 Deleted.

(Paragraph deleted)
§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

See Exhibit B – Cushing Terrell 2026 Hourly Rates
See Exhibit C – IMEG 2026 Standard Hourly Rates
(Table deleted)

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- **.1** Transportation and authorized out-of-town travel and subsistence;
- **.2** Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- **.3** Permitting and other fees required by authorities having jurisdiction over the Project;
- **.4** Printing, reproductions, plots, and standard form documents;
- **.5** Postage, handling, and delivery;
- **.6** Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- **.7** Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- **.8** If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- **.9** All taxes levied on professional services and on reimbursable expenses;
- **.10** Site office expenses;

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.11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and

.12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus twenty percent (20 %) of the expenses incurred.

§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.6 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:
(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.6, and for which the Owner shall reimburse the Architect.)

Not Applicable

§ 11.10 Payments to the Architect
§ 11.10.1 Initial Payments
§ 11.10.1.1 An initial payment of zero ($ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of zero ($ 0) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

§ 11.10.2 Progress Payments
§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.
(Insert rate of monthly or annual interest agreed upon.)

Twelve (12) % per annum

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS
Special terms and conditions that modify this Agreement are as follows:
(Include other terms and conditions applicable to this Agreement.)

§ 12.1 The Owner understands and acknowledges that although the Instruments of Service shall be prepared within the Standard of Care stated in paragraph 2.2 of this Agreement, the Contractor may require additional information from the Architect to clarify, correct, supplement, and coordinate the design intent shown in the Construction Documents that result in increases in the Construction Cost, and that an increase in the Construction Cost does not automatically mean that the Architect has breached the Standard of Care.

§ 12.2 Except as set forth in this Section, or as expressly agreed in writing by the Architect and Owner, no person other than the parties to this Agreement or their successors and assigns shall be a third party beneficiary of the obligations contained in this Agreement or have the right to enforce any of its provisions.

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ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

.1 AIA Document B133™–2019, Standard Form Agreement Between Owner and Architect, Construction Manager as Constructor Edition

.2

(Paragraphs deleted)

Exhibits:

[

(Paragraphs deleted)

X] Other Exhibits incorporated into this Agreement:

(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

*(Paragraphs deleted)*Exhibit A – Preliminary Program of Spaces
Exhibit B – Cushing Terrell 2026 Standard Hourly Rates
Exhibit C – IMEG 2026 Standard Hourly Rates - Civil

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*	**ARCHITECT** *(Signature)*
Joe Purcell, Mayor	Shannon Christensen, Principal
(Printed name and title)	*(Printed name, title, and license number, if required)*

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Additions and Deletions Report for

AIA® Document B133® – 2019

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PAGE 1

AGREEMENT made as of the Seventeenth day of February in the year Two Thousand Twenty-Six

...

City of Hardin
406 North Cheyenne Avenue
Hardin, Montana 59034

...

CTA Inc. dba Cushing Terrell
PO Box 1439
Billings, Montana 59103

...

Hardin Visitor Information Center
928 North Mitchell Avenue
Hardin, Montana 59034

...

Langlas & Associates, Inc.
2685 Gabel Road
Billings, Montana 59102

PAGE 2

See attached Exhibit A – Preliminary Program of Spaces

...

The Project will occupy a city owned parcel of 2.28 acres for a 1,040 square foot facility including a welcome desk, restrooms and support services. The property is bound by North Mitchell Avenue to the southeast and Vanzandt Road to the north. Legal description of the property is as follows: S23, T01 S, R33 E, ACRES 2.28, TRIANGULAR TRACT IN NE4NW4. Geotechnical report will be provided by SK Geotechnical as the Owner's consultant. Topographic survey has been completed by IMEG Consultants Corp. as the Architect's consultant under a previous agreement. Public utilities available for connection adjacent to the site.

...

Seven hundred twenty thousand thirty-eight dollars ($720,038)

PAGE 3

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Construction Documents - May 1, 2026

...

June 29, 2026

...

December 18, 2026

...

Not Applicable.

...

[X] AIA Document A133–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.

...

This Agreement is for Phase 1 of the project. Services for subsequent phases will be provided under future separate Agreements upon approval by the Owner to proceed.

...

Not Applicable

~~§ 1.1.7.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234-2019 is incorporated into this Agreement, the Owner and Architect shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.~~

...

Alexandria Edwards, Project Manager
City of Hardin
406 North Cheyenne Avenue
Hardin, Montana 59034
Phone: 406.679.0028
Email: aedwards@hardinmt.com

...

Not Applicable.

PAGE 4

Langlas & Associates, Inc.
2685 Gabel Road

~~.2 Land Surveyor:~~

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Billings, Montana 59102

...

SK Geotechnical
2511 Holman Avenue
PO Box 80190
Billings, Montana 59108-0190

~~.4 Civil Engineer:~~

~~.5 Other consultants and contractors:~~
~~*(List any other consultants and contractors retained by the Owner.)*~~

406.652.3930

...

Shannon Christensen
CTA Inc. dba Cushing Terrell
PO Box 1439
Billings, Montana 59103
Phone: 406.896.6126
Email: shannonchristensen@cushingterrell.com

...

Service Provided by Cushing Terrell

...

Service Provided by Cushing Terrell

...

Service Provided by Cushing Terrell

...

Civil Engineering by IMEG, 550 North 31st Street, Suite 111, Billings Montana 59101

...

Conceptual and Schematic Design of the project completed by Architect under a separate Agreement.

PAGE 5

§ 1.3 The parties ~~shall~~ may agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document

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E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

...

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar ~~circumstances.~~ circumstances on the same or similar projects
("Standard of Care"). The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall provide its services in conjunction with the services of ~~a Construction Manager~~ the Construction Manager retained by the Owner as described in the agreement identified in Section 1.1.5. The Architect shall not be responsible for ~~actions taken by~~ any actions, errors, or omissions of the Construction Manager.

...

§ 2.6.1 Commercial General Liability with policy limits of not less than one million dollars ($ 1,000,000.00) for each occurrence and two million dollars ($ 2,000,000.00) in the aggregate for bodily injury and property damage.

§ 2.6.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than one million dollars ($ 1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.
PAGE 6

§ 2.6.5 Employers' Liability with policy limits not less than one million dollars ($ 1,000,000.00) each accident, one million dollars ($ 1,000,000.00) each employee, and one million dollars ($ 1,000,000.00) policy limit.

§ 2.6.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than one million dollars ($ 1,000,000.00) per claim and two million dollars ($ 2,000.000.00) in the aggregate.

§ 2.6.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella ~~policies~~ polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The ~~additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.~~Architect does not make any representations about the nature and/or extent of coverage provided by these policies and is not responsible for any coverage determination made by an insurance carrier.

...

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit, for the Construction Manager's review and the Owner's approval, a schedule for the performance of the Architect's services. The schedule shall include design phase milestone dates, as well as the anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the Construction Manager's review, for the performance of the Construction Manager's Preconstruction Phase services, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. ~~Once approved by the Owner, time limits~~

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~~established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval,~~ With the Owner's approval, which shall not be unreasonably withheld, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.
PAGE 7

§ 3.1.8 Prior to the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, ~~or the Owner's approval of the Construction Manager's Control Estimate, as applicable,~~ the Architect shall consider the Construction Manager's requests for substitutions and, upon written request of the Construction Manager, provide clarification or interpretations pertaining to the Drawings, Specifications, and other documents submitted by the Architect. The Architect and Construction Manager shall include the Owner in communications related to substitution requests, clarifications, and interpretations.

...

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare, for ~~review by the Owner and Architect, and for~~ the Owner's acceptance or approval, a Guaranteed Maximum Price proposal or Control Estimate. The Architect ~~shall~~ may assist the Owner in reviewing the Construction Manager's proposal or estimate. The Architect's review is not for the purpose of discovering errors, omissions, or inconsistencies; for the assumption of any responsibility for the Construction Manager's proposed means, methods, sequences, techniques, or procedures; or for the verification of any estimates of cost or estimated cost proposals. In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner and Construction Manager. Notwithstanding any other provision in this Agreement, the Architect does not make any representation regarding the accuracy of any Guaranteed Maximum Price proposal or Control Estimate. The Architect cannot and does not make any representations or guarantees about the actual cost of construction.

...

§ 3.3 Schematic Design Phase Services - Deleted
~~**§ 3.3.1** The Architect shall review the program, and other information furnished by the Owner and Construction Manager, and shall review laws, codes, and regulations applicable to the Architect's services.~~

~~**§ 3.3.2** The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.~~

~~**§ 3.3.3** The Architect shall present its preliminary evaluation to the Owner and Construction Manager and shall discuss with the Owner and Construction Manager alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.~~

~~**§ 3.3.4** Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, to the Owner and Construction Manager, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.~~

~~**§ 3.3.5** Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for Construction Manager's review and the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.~~

~~**§ 3.3.5.1** The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.~~

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~~**§ 3.3.5.2** The Architect shall consider with the Owner and the Construction Manager the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.~~

~~**§ 3.3.6** The Architect shall submit the Schematic Design Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Schematic Design Documents.~~

~~**§ 3.3.7** Upon receipt of the Construction Manager's review comments and cost estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under Section 6.4, and request the Owner's approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.~~

~~**§ 3.3.8** In the further development of the Drawings and Specifications during this and subsequent phases of design, the Architect shall be entitled to rely on the accuracy of the estimates of the Cost of the Work, which are to be provided by the Construction Manager under the Construction Manager's agreement with the Owner.~~

§ 3.4 Design Development Phase Services Deleted

~~**§ 3.4.1** Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Construction Manager's review and the Owner's approval. The Design Development Documents shall be based upon information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.~~

~~**§ 3.4.2** Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Design Development Documents.~~

~~**§ 3.4.3** Upon receipt of the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents.~~

PAGE 8

§ 3.6.1.1 ~~The~~ If the Owner retains and compensates the Architect for Construction Phase Services, the Architect shall provide administration of the Contract between the Owner and the Construction Manager as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Construction Manager modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

...

§ 3.6.1.3 The Architect shall advise and consult with the Owner and Construction Manager during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Construction Manager's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Owner, the Construction Manager or of any other persons or entities performing portions of the Work, or any separate

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consultants retained by the Owner. The Architect is not responsible for the Construction Manager's failure to properly perform the Work.

...

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or at times and intervals mutually agreed by the parties, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Construction Manager, and (3) defects and deficiencies observed in the Work. However, nothing in this Article §3.6.2 shall impose any liability on the Architect for failure to identify or discover deficiencies in the Contractor's Work. The Contractor remains solely and exclusively responsible for properly constructing the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract ~~Documents.~~ Documents only if authorized by the Owner and only if actually discovered by the Architect. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Construction Manager, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.
PAGE 9

§ 3.6.3.1 The Architect shall review and certify the amounts due the Construction Manager and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Construction Manager's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work generally is in accordance with the Contract Documents, and that the Construction Manager is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.
PAGE 11

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§ 4.1.1.1 Assistance with Selection of Construction Manager	Not Provided
§ 4.1.1.2 Programming	Not Provided
§ 4.1.1.3 Multiple Preliminary Designs	Not Provided
§ 4.1.1.4 Measured drawings	Not Provided
§ 4.1.1.5 Existing facilities surveys	Not Provided
§ 4.1.1.6 Site evaluation and planning	Not Provided
§ 4.1.1.7 Building Information Model management responsibilities	Not Provided
§ 4.1.1.8 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.9 Civil engineering	Architect
§ 4.1.1.10 Landscape design	Architect
§ 4.1.1.11 Architectural interior design	Architect
§ 4.1.1.12 Value analysis	Not Provided
§ 4.1.1.13 Cost estimating	Not Provided
§ 4.1.1.14 On-site project representation	Not Provided
§ 4.1.1.15 Conformed documents for construction	Not Provided
§ 4.1.1.16 As-designed record drawings	Not Provided
§ 4.1.1.17 As-constructed record drawings	Not Provided
§ 4.1.1.18 Post-occupancy evaluation	Not Provided
§ 4.1.1.19 Facility support services	Not Provided
§ 4.1.1.20 Tenant-related services	Not Provided
§ 4.1.1.21 Architect's coordination of the Owner's consultants	Not Provided
§ 4.1.1.22 Telecommunications/data design	Not Provided
§ 4.1.1.23 Security evaluation and planning	Not Provided
§ 4.1.1.24 Commissioning	Not Provided
§ 4.1.1.25 Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.26 Historic preservation	Not Provided
§ 4.1.1.27 Furniture, furnishings, and equipment design	Not Provided
§ 4.1.1.28 Site Survey	Architect
~~§ 4.1.1.28 Other services provided by specialty Consultants~~	
§ 4.1.1.29 Site Lighting	Architect
~~§ 4.1.1.29 Other Supplemental Services~~	

...

.1 Civil Engineering

Architect's Civil Engineering Consultant will provide a site plan for the Project which includes water and sewer service to the building, sized for full build out conditions, as well as 80% of the asphalt parking lot with a boulder pit for stormwater and concrete sidewalk. A set of civil construction plans adequate for permitting and construction including a site plan, grading plan and utility plan. Consultant will be included in design team meetings with Architect. Also included is bidding/negotiation support to answer bidder questions and construction administration including one round of shop drawing submittals. Consultant will visit the site during portions of the civil construction.

.2 Landscape Design

Architect's Landscape Architect will provide planting and performance irrigation design for Phase 1 on-property and right-of-way areas, coordination with civil engineering on vehicular and pedestrian circulation and grading. Services

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will include electronic CADD files of Construction Documents and specifications incorporated into the Project Manual. Construction administration services include submittal review, responding to requests for information, and substantial completion punch list.

.3 Architectural Interior Design
Architect's Interior Designer will conduct meetings with Owner, propose design solutions and develop designs approved by Owner. Interior design documents will be integrated into the Construction Document package provided by Architect.

.4 Site Survey
Architect's Civil Engineering Consultant will conduct additional boundary surveying of the adjacent areas to accurately determine where boundary lines were intended to be.

. 5 Site Lighting
Architect's Electrical Engineer will provide interior and exterior lighting design incorporated into the Construction Documents.
PAGE 12

Not Applicable
PAGE 13

- **.1** One (1) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Construction Manager
- **.2** Six (6) visits to the site by the Architect during construction
- **.3** One (1) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- **.4** One (1) inspections for any portion of the Work to determine final completion

...

§ 4.2.5 If the services covered by this Agreement have not been completed within eleven (11) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.
PAGE 15

§ 6.3.1 ~~If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Architect and the Construction Manager shall work together to reconcile the cost estimates.~~The Architect is not providing cost estimating services.
PAGE 17

§ 8.1.2 To the extent damages are covered by property insurance, or other similar insurance applicable to the Work, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The ~~Architect shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. The Architect's obligation to indemnify and hold the Owner and the Owner's officers and employees harmless does not include a duty to defend. The Architect's duty to indemnify the Owner under this Section 8.1.3 shall be limited to the available proceeds of the insurance coverage required by this Agreement.~~parties have reviewed and analyzed the relatives risks and benefits of the Project to both the Owner and the Architect, and have agreed to allocate the risks such that the Owner agrees to limit the Architect's liability to all parties, including the Owner, so that the total

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aggregate liability of the Architect and the Architect's officers, directors, partners, employees, shareholders, and owners shall not exceed the total compensation as identified within Article 12 or in limit of insurance listed in §2.6.6, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law. The Owner acknowledges that it has had the opportunity to discuss and consider the possibility of a higher limit of liability in return for an increased fee paid to the Architect and has determined that the liability limit set forth above is appropriate. The Architect shall not be liable to the Owner, Owner's employees, consultants, contractors, subcontractors, agents, or any other third parties for special, incidental, or consequential, or penal losses or damages (including but not limited to anticipated profits, lost profits and/or loss of use of the project or site that is the subject of this Agreement) under any circumstances

...

[**X**] Litigation in a court of competent jurisdiction

~~[ ] Other: *(Specify)*~~

PAGE 18

~~**§ 8.3 Arbitration**~~

~~**§ 8.3.1** If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.~~

~~**§ 8.3.1.1** A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.~~

~~**§ 8.3.2** The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

~~**§ 8.3.3** The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

~~**§ 8.3.4 Consolidation or Joinder**~~

~~**§ 8.3.4.1** Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~**§ 8.3.4.2** Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

~~**§ 8.3.4.3** The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.~~

~~**§ 8.4** The provisions of this Article 8 shall survive the termination of this Agreement.~~

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§ 8.3 Arbitration—Deleted

...

§ 9.7 ~~In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:~~
~~*(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)*~~

~~**.1** Termination Fee:~~

~~**.2** Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:~~

Deleted.

...

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. ~~Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except~~ During the term of this Agreement and following its expiration or termination for any reason, neither Owner nor Architect shall transfer, assign, convey or sublet any right, claims (including any causes of action or claims alleging breach, negligence, loss or damages arising out of this Agreement), duty or obligation under it, nor any other interest therein, without the prior written consent of the other party The sole exception to this provision is that the Owner may assign this Agreement to a lender providing financing for the Project if and only if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.
PAGE 19

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect. There are no intended third-party beneficiaries of this Agreement.

...

Seventy Nine Thousand Two Hundred and Four ($79,204)

~~**.2** Percentage Basis~~
~~*(Insert percentage value)*~~

~~( ) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.~~
PAGE 20

.1 Civil Engineering – Stipulated Sum of $29,172.
.2 Landscape Design – Stipulated Sum of $8,500.
.3 Interior Design – Stipulated Sum of $4,600.
.4 Site Survey – Stipulated Sum of $3,444
.5 Site Lighting – Stipulated Sum of $3,000.

...

Hourly based on the Architect's Standard Rates for the year in which time is expended.

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§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus ~~percent (%), or as follows:~~
~~*(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)*~~
twenty percent (20 %).

~~**§ 11.5** When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:~~

~~Schematic Design Phase~~		~~percent (~~		~~%)~~
~~Design Development Phase~~		~~percent (~~		~~%)~~
~~Construction Documents Phase~~		~~percent (~~		~~%)~~
~~Construction Phase~~		~~percent (~~		~~%)~~
~~Total Basic Compensation~~	~~one hundred~~	~~percent (~~	~~100~~	~~%)~~

~~The Owner acknowledges that with an accelerated Project delivery, multiple bid package process, or Construction Manager as constructor project delivery method, the Architect may be providing its services in multiple Phases simultaneously. Therefore, the Architect shall be permitted to invoice monthly in proportion to services performed in each Phase of Services, as appropriate.~~

§ 11.6 ~~When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.~~Deleted.

~~**§ 11.6.1** When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.~~

...

See Exhibit B – Cushing Terrell 2026 Hourly Rates
See Exhibit C – IMEG 2026 Standard Hourly Rates

~~Employee or Category~~	~~Rate ($0.00)~~

PAGE 21

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus twenty percent (20 %) of the expenses incurred.

...

Not Applicable

...

§ 11.10.1.1 An initial payment of zero ($ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of zero ($ 0) shall be made upon execution of this Agreement for registration fees and other fees payable to the

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Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

...

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

...

Twelve (12) % per annum

...

§ 12.1 The Owner understands and acknowledges that although the Instruments of Service shall be prepared within the Standard of Care stated in paragraph 2.2 of this Agreement, the Contractor may require additional information from the Architect to clarify, correct, supplement, and coordinate the design intent shown in the Construction Documents that result in increases in the Construction Cost, and that an increase in the Construction Cost does not automatically mean that the Architect has breached the Standard of Care.

§ 12.2 Except as set forth in this Section, or as expressly agreed in writing by the Architect and Owner, no person other than the parties to this Agreement or their successors and assigns shall be a third party beneficiary of the obligations contained in this Agreement or have the right to enforce any of its provisions.

PAGE 22

.2 ~~Building Information Modeling Exhibit, if completed:~~

_____

_____

.3 ~~—~~Exhibits:

~~*(Check the appropriate box for any exhibits incorporated into this Agreement.)*~~

~~[ ] AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition dated as indicated below.~~

~~*(Insert the date of the E234-2019 incorporated into this agreement.)*~~

~~[~~ **X**] Other Exhibits incorporated into this Agreement:

...

.4 ~~Other documents:~~

~~*(List other documents, if any, forming part of the Agreement.)*~~Exhibit A – Preliminary Program of Spaces
Exhibit B – Cushing Terrell 2026 Standard Hourly Rates
Exhibit C – IMEG 2026 Standard Hourly Rates - Civil

...

Joe Purcell, Mayor

Shannon Christensen, Principal

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_____

(Signed)

_____

(Title)

_____

(Dated)

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CITY OF HARDIN

EXHIBIT A

CUSHING TERRELL | IMEG

SD PROGRAM

CLIENT FEEDBACK MEETING
2/12/2026

DEPARTMENT NAME	SPACE TYPE	NET AREA	ROOM COUNT	SF TOTAL	SF	AMENITIES
MAIN LOBBY/ WELCOME	VISITOR RECEPTION + INFO DESK	250	1	250	SF	BUILT IN DESK OR FF&E, LOCKABLE STORAGE, COMPUTERS+PRINTER, TICKETING SYSTEM
	PUBLIC WAITING/SEATING ZONE		1		SF	SEATING, POWER
	GIFT SHOP		1		SF	PENNY SMASHER, MUGS, TSHIRTS, PRODUCT MERCH, POS STATION WITHIN RECEPTION DESK
	ORIENTATION DISPLAY ALCOVE		1		SF	BUILT IN SHELVING, INFO GRAPHICS
EXHIBIT GALLERY	EXHIBIT EXPERIENCE	1200	0	0	SF	
	PERMANENT DISPLAY ALCOVE		0		SF	NEED FURTHER DEVELOPMENT, TOUR OTHER FACILITUES
	INTERACTIVE DISPLAY AREA		0		SF	AGRITOURISM ITEMS, TOUCH & FEEL ITEMS
	GALLERY SUPPORT/PREP ROOM		0		SF	
	INTERPRETIVE READING/MEDIA AREA		0		SF	BATTLEFIELD CONNECTION, MEDIA AVAILABLE DAM, OTHER
COMMUNITY MULTI-PURPOSE	EVENTS AV CLOSET	75	0	0	SF	
	COWORKING ZONE	150	0	0	SF	OPEN OFFICE FURNISHINGS + TECH + LOUNGE, WHITEBOARDS, BOTH ON WALLS AND MOBILE, FLIP CHARTS
	MEETING ROOM (MED CONF)	200	0	0	SF	TABLE, CONF CHAIRS, AV + TECH, CREDENZA, WHITEBOARD, BUFFET BAR DUAL USE WITH COWORKING SPACE
	BREAKROOM/COFFEE AREA	125	0	0	SF	BUILT IN CASEWORK, UC FRIG, DW, SINK, FAUCET, MICROWAVE, COUNTER APPLIANCES
ADMINISTRATION	CHAMBER OFFICE	150	0	0	SF	
	FLEX OFFICE	100	0	0	SF	RENTABLE OFFICES IN COWORKING SPACE.1 OFFICE FOR FLEX 110 SF. 1 FOR CHAMBER/STORAGE ROOM 150 SF LBHD STORAGE
RESTROOMS	MEN'S RESTROOM	90	1	90	SF	
	WOMEN'S RESTROOM	90	1	90	SF	
	FAMILY/UNISEX ADA RESTROOM	60	0	0	SF	ADULT CHANGING TABLE AS A REQUEST
BACK OF HOUSE	MECHANICAL ROOM	40	1	40	SF	HOLD SPACE FOR BMS FIRE WITHIN THIS ROOM IF THEY CAN BE COMBINED
	FIRE RISER CLOSET	80	0	0	SF	DEPENDS ON OCCUPANCY AND JURISDICTION, CAN THIS GO INTO THE MECHANICAL ROOM
	ELECTRICAL ROOM	40	1	40	SF	
	IT DATA/SERVER CLOSET	50	0	0	SF	CAN THIS MERGE WITH ELECTRICAL ROOM
	GENERAL STORAGE	300	0	0	SF	DOES THIS NEED TO BE BROKEN OUT BY DIFFERENT ROOMS? METRO RACKS, ARCHIVAL STORAGE
	JANITORS CLOSET	30	1	30	SF	COMBINE WITH MECHANICAL. SUPPLY RACK, MOP SINK, FAUCET, SHELVING
CIRCULATION	ENTRY VESTIBULE + COVERED ENTRY	235	1	235	SF	
	Total			**775**	**SF**	
			20%	**155**	**SF**	CAN SQUEEZE DOWN DURING NEXT STEPS IN SPACE BLOCKING
	PROGRAM OVERALL TOTAL NET SF			**930**	**SF**	

EXHIBIT B

2026 Standard Hourly Rates

Cushing Terrell.

ARCHITECTURAL	Min	Max
Architectural Production	$ 97.00	$ 139.00
Architectural	$ 121.00	$ 168.00
Project Architect	$ 132.00	$ 199.00
Project Management - Architectural	$ 168.00	$ 234.00
Director/Lead of Architectural	$ 241.00	$ 266.00
Landscape Architect	$ 120.00	$ 145.00
Landscape Architect Senior	$ 197.00	$ 220.00
Planner	$ 119.00	$ 172.00
Interior Designer	$ 97.00	$ 158.00
Interior Designer Senior	$ 133.00	$ 239.00
Sustainability Professional	$ 148.00	$ 163.00
Sustainability Senior	$ 213.00	$ 214.00
Architectural Principal	$ 248.00	$ 318.00
ENGINEERING		
Engineering Production Civil	$ 123.00	$ 193.00
Engineering Civil	$ 160.00	$ 218.00
Engineering Civil Senior	$ 266.00	$ 294.00
Engineering Production Structural	$ 106.00	$ 162.00
Engineering Structural	$ 146.00	$ 201.00
Engineering Structural Senior	$ 235.00	$ 275.00
Engineering Production Electrical	$ 115.00	$ 165.00
Engineering Electrical	$ 161.00	$ 233.00
Engineering Electrical Senior	$ 266.00	$ 284.00
Engineering Production Mechanical	$ 115.00	$ 153.00
Engineering Mechanical	$ 129.00	$ 222.00
Engineering Mechanical Senior	$ 197.00	$ 256.00
Engineering Production Refrigeration	$ 115.00	$ 124.00
Engineering Refrigeration	$ 112.00	$ 175.00
Engineering Refrigeration Senior	$ 195.00	$ 259.00
Engineering Principal	$ 265.00	$ 318.00
SUPPORT		
Project Coordinator	$ 92.00	$ 130.00
Administrative Assistant	$ 74.00	$ 124.00
Graphic Designer	$ 116.00	$ 159.00

2026 STANDARD HOURLY RATES - CIVIL

(rates adjusted annually)

Senior Client Executive/ Senior Market Director / VP	$260
Client Executive / Market Director	$245
Project Executive	$210
Senior Project Manager 2	$205
Senior Project Manager 1	$185
Engineer of Distinction	$220
Senior Engineer 3	$200
Senior Engineer 2	$185
Senior Engineer 1	$170
Project Engineer 2	$160
Project Engineer 1	$145
Landscape Architect of Distinction	$210
Senior Landscape Architect 3	$195
Senior Landscape Architect 2	$175
Senior Landscape Architect 1	$165
Project Landscape Architect 2	$155
Project Landscape Architect 1	$145
Planner of Distinction	$210
Senior Planner 3	$195
Senior Planner 2	$175
Senior Planner 1	$165
Project Planner 2	$155
Project Planner 1	$145
Planner 2	$115
Planner 1	$105
Planner Technician 2	$95
Planner Technician 1	$85
Graduate (Designer / Planner) 2	$130
Graduate (Designer / Planner) 1	$120
Senior Land Surveyor 3	$170
Senior Land Surveyor 2	$155
Senior Land Surveyor 1	$145
Project Surveyor 2	$135
Project Surveyor 1	$130
Senior Crew Chief 3	$150
Senior (Crew Chief / Coordinator) 2	$140
Senior (Crew Chief / Coordinator) 1	$135
(Crew Chief / Senior Technician / Project Coordinator) 2	$130
(Crew Chief / Senior Technician / Project Coordinator) 1	$125
Technician 4 / Graduate Surveyor 2	$115
Technician 3 / Graduate Surveyor 1	$110
Technician 2	$95
Technician 1	$85
Designer of Distinction	$180
Senior Designer 3	$165
Senior Designer 2	$155
Senior Designer 1	$145
Project Designer 2	$135
Project Designer 1	$130
Designer 2	$120
Designer 1	$110
Design Technician 2	$100
Design Technician 1 / Intern	$90
Senior Construction Administrator	$150
Construction Administrator	$140
Senior Environmental Specialist 3	$205
Senior Environmental Specialist 2	$195
Senior Environmental Specialist 1	$185
Senior Engagement Specialist 1	$180
Environmental Specialist 1	$165
Environmental Technician 1	$125
GIS System Architect	$135
GIS Analyst	$130
Graduate (GIS Analyst) 2	$125
Graduate (GIS Analyst) 1	$115
Senior Administrative Assistant	$95
Administrative Assistant	$85

*These rates are for staff located in the office providing the rates. Staff based in one of IMEG's other offices may have different billing rates. These rates can be provided upon request.

Equipment Rates	
Company Vehicle	Current IRS Mileage Rate
GPS/Robotics	$150 / Day
UTV	$115 / Day
ATV	$100 / Day
Drone Aircraft	$TBD Per Project Type
Well Sounder	$40 / Day
Submersible Pump	$40 / Day

Reimbursable Expenses	
Approved Per Diem*	$50 / Day
Copier Reproduction	$0.05 / Page
Prints (Plotting)	$0.125 / Square Foot
Sub-Consultants	Cost + 10%
Agency Review Fees	Cost (Paid Directly by Client or Retainer)
Direct Project Expenses	Cost + 10%
Travel Expenditures	Cost + 5%

Activity List	**Unit Billing Rate**
Alum Survey Caps	$6
Rebar	$5
T-Post	$10
Lath (Per Bundle)	$75
Hub Stakes (Per Bundle)	$30
Marking Paint (Per Can)	$10
Final Send Out	$15

Testing Fees:	**Unit Rate:**
Subgrade Inspection:	
Compaction Test	$200/ Test
Concrete Testing:	
Four cylinders per set with slump, air, temperature & strength tests.	$600/ Set
Masonry Testing:	
Four cylinders per set.	$250/ Set
Asphalt Testing	
Inspector	$100/ Hour
Marshall Testing**	$310/ Test
Coring & Testing**	$70/ Core
**Services subcontracted to material testing company may vary.	

*Per Diem rate applies for all employees who stay overnight or who travel outside of a 50-mile radius from their place of dwelling. If your project qualifies, the Per Diem charge will be automatically added.

CITY-COUNTY PLANNING BOARD
CITY OF HARDIN/BIG HORN COUNTY
PO Box 305
HARDIN MT 59034-0305

Public Hearings

3/9/2026 7:00pm
City of Hardin
Zoning Ordinance

Regular Meeting

Meeting to Follow Public Hearing

1. Call to order
2. Submission of minutes from February 2026
3. Submission of financial statement(s) & bill(s) to be paid
4. Old Business
    a. City Council/Jail
5. New Business
    a. City of Hardin Zoning Ordinance
    b. New Member
       *Mayor Appointed Position
    c. County Commissioners appointed member update
6. Announcements
7. Adjournment