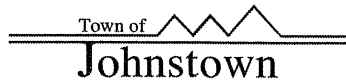


TOWN COUNCIL
MEETING
PACKET

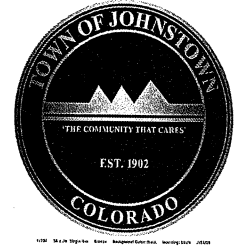
April 16, 2018



Town Council

Agenda

Monday, April 16, 2018
Town Hall, Council Chambers
450 So. Parish Avenue
7:00 PM



MISSION STATEMENT—*The mission of the government of the Town of Johnstown is to provide leadership based upon trust and integrity, commitment directed toward responsive service delivery, and vision for enhancing the quality of life in our community.*

Members of the audience are invited to speak at the Council meeting. Public Comment (item No. 5) is reserved for citizen comments on items not contained on the printed agenda. Citizen comments are limited to three (3) minutes per speaker. When several people wish to speak on the same position on a given item, they are requested to select a spokesperson to state that position. If you wish to speak at the Town Council meeting, please fill out a sign-up sheet and present it to the Town Clerk.

- 1) **CALL TO ORDER**
 - A) Pledge of Allegiance
- 2) **ROLL CALL**
- 3) **AGENDA APPROVAL**
- 4) **RECOGNITIONS AND PROCLAMATIONS**
- 5) **PUBLIC COMMENT (three-minute limit per speaker)**

*The "Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any Council member wishes to have an item discussed or if there is public comment on those ordinances marked with an *asterisk. The Council member may then move to have the subject item removed from the Consent Agenda for discussion separately.*

- 6) **CONSENT AGENDA**
 - A) Town Council Meeting Minutes – April 2, 2018
 - B) Payment of Bills
 - C) March Financial Statements
 - D) Metropolitan District Procedural Policy
- 7) **STAFF REPORTS**
- 8) **OLD BUSINESS**
 - A) Consider Agreement for Preconstruction Services for the Johnstown Community Recreation Center Project – Adolfson & Peterson Construction

9) **ADJOURN**

10) **NEW BUSINESS**

- A) Administer Oath of Office – Newly Elected Council Members
- B) Roll Call
- C) Agenda Approval
- D) Recognition of Outgoing Council Member
- E) Appointment of Mayor Pro Tem
- F) Appointment of Town Attorney
- G) Appointment of Municipal Court Judge

11) **COUNCIL REPORTS AND COMMENTS**

12) **MAYOR'S COMMENTS**

13) **ADJOURN**

AGENDA ITEMS 6A-D

CONSENT

AGENDA

- **Council Minutes**
- **Payment of Bills**
- **March Financial Statements**
- **Metropolitan District Procedural Policy**

TOWN COUNCIL AGENDA COMMUNICATION

AGENDA DATE: April 16, 2018

ITEM NUMBER: 6A-D

SUBJECT: Consent Agenda

ACTION PROPOSED: Approve Consent Agenda

PRESENTED BY: Town Clerk

AGENDA ITEM DESCRIPTION: The following items are included on the Consent Agenda, which may be approved by a single motion approving the Consent Agenda:

- A) Council Meeting Minutes – April 2, 2018
- B) Payment of Bills
- C) March Financial Statements
- D) *Metropolitan District Procedural Policy

*The attached Metropolitan District Procedural Policy set forth the development conditions and Service Plan submittal materials required of an applicant seeking approval of a Title 32 Metropolitan District.

LEGAL ADVICE: The entire Consent Agenda may be approved by a motion of the Town Council approving the Consent Agenda, which automatically approves each and every item listed on the Consent Agenda. If a Council member wishes to have a specific discussion on an individual item included with the Consent Agenda, they may move to remove the item from the Consent Agenda for discussion.

FINANCIAL ADVICE: N/A

RECOMMENDED ACTION: Approve Consent Agenda

SUGGESTED MOTION:

For Approval: I move to approve the Consent Agenda.

For Denial:

Reviewed:


Town Manager

COUNCIL MINUTES

The Town Council of the Town of Johnstown met on Monday, April 2, 2018 at 7:00 p.m. in the Council Chambers at 450 S. Parish Avenue, Johnstown.

Mayor James led the Pledge of Allegiance.

Roll Call:

Those present were: Councilmembers Davis, Lebsack, Mellon, Molinar Jr., Tallent and Young

Also present: Avi Rocklin, Town Attorney, Roy Lauricello, Town Manager, John Franklin, Town Planner, Brian Phillips, Police Chief and Diana Seele, Town Clerk/Treasurer

Agenda Approval

Councilmember Mellon made a motion seconded by Councilmember Young to approve the Agenda as submitted. Motion carried with a unanimous vote.

Consent Agenda

Councilmember Mellon made a motion seconded by Councilmember Lebsack to approve the Consent Agenda with the following items included:

- March 19, 2018 Council Meeting Minutes
- First Amendment to Subdivision Development and Improvement Agreement (Thompson River Ranch Filing No. 6) between the Town of Johnstown and Clayton Properties Group II, Inc.
- Award of Contract to All Terrain Landscaping for Clearview Park Expansion Irrigation Project

Motion carried with a unanimous vote.

Old Business

A. Continued Public Hearing – Amended Public Improvement Development Agreements for Iron Horse Filings 1 & 2 – This is a continued public hearing from February 21, 2018, the applicant, McWhinney Enterprises, developer of the industrial and commercial property known as Iron Horse, requested amendments to the Iron Horse development agreements, to remove the restriction on the issuance of additional building permits and address the responsibility for constructing the County Road 3 frontage improvements.

Mayor James recused himself from the meeting Mayor Pro-Tem Lebsack opened the public hearing at 7:06 p.m. The applicant, Troy McWhinney addressed the council and informed them of the possibility of Carrier West, a heating and air conditioning distributor, wanting to relocate in the Iron Horse Development. Mr. McWhinney would like assurances that the building permit for this company could be released while they continue to work with the Town on agreements related to the road improvements. Having no public comments Mayor Pro-Tem Lebsack closed the hearing at 7:18 p.m.

Johnstown, Colorado

-2-

April 2, 2018

Councilmember Tallent made a motion seconded by Councilmember Davis to approve the amendment to the development agreement to allow the issuance of one building permit in the Iron Horse development to Mr. Lowmiller, the owner of Carrier West. Motion carried with a unanimous vote.

There being no further business to come before Council the meeting adjourned at 7:25 p.m.

Mayor

Town Clerk/Treasurer

**PAYMENT
OF
BILLS**

BILLS SUBMITTED FOR PAYMENT- APRIL 2018	
A & E TIRE, INC.	\$ 546.68
ACE HARDWARE	\$ 539.53
ALL COPY PRODUCTS	\$ 349.73
ALTERNATIVE ELEVATIONS LLC	\$ 200.00
ANCHOR AUTO GLASS	\$ 171.27
ANGEL ARMOR	\$ 1,558.00
ARAPAHOE RENTAL	\$ 272.99
ARROWHEAD FORENSICS	\$ 170.07
ATLAS BUSINESS SOLUTIONS INC.	\$ 496.80
BRANDON COPELAND	\$ 533.68
CASELLE	\$ 1,029.00
CENTRAL WELD COUNTY WATER DISTRICT	\$ 586.00
CENTURY LINK	\$ 330.83
CH DIAGNOSTIC AND CONSULTING SERVICES, INC.	\$ 420.00
CHEMATOX LABORATORY, INC.	\$ 970.00
CINTAS	\$ 465.01
CIRSA	\$ 46,758.75
COLORADO ANALYTICAL	\$ 100.00
COREN PRINTING	\$ 250.00
DENVER INDUSTRIAL SALES & SERVICE CO., INC.	\$ 636.16
DPC INDUSTRIES (CHEMICALS)	\$ 15,457.22
DXP ENTERPRISES, INC.	\$ 729.24
ELECTION SOURCE	\$ 23.34
FARIS MACHINERY CO.	\$ 1,700.28
FERGUSON ENTERPRISES INC.	\$ 460.34
FIRST CLASS SECURITY SYSTEMS	\$ 78.90
FIRST NATIONAL BANK	\$ 1,569.78
G&K SERVICES	\$ 220.73
GRAINGER	\$ 531.01
GREELEY TRIBUNE	\$ 57.20
GREYSTONE TECHNOLOGY	\$ 1,200.00
HAYS MARKET	\$ 306.43
HELTON & WILLIAMSEN P.C.	\$ 907.50
INTERSTATE BATTERY OF THE ROCKIES	\$ 99.95
J & S CONTRACTORS SUPPLY CO.	\$ 456.00
JOHNSTOWN BREEZE	\$ 521.94
JOHNSTOWN CLOTHING & EMBROIDERY	\$ 59.70
LARIMER COUNTY CLERK & RECORDER	\$ 25.00
LARIMER HUMANE SOCIETY	\$ 2,940.00
LAW OFFICE OF AVI S. ROCKLIN, LLC	\$ 5,762.00
LAZAR, MICHAEL A.	\$ 1,500.00
LITTLE THOMPSON WATER DISTRICT	\$ 29.00
LOVELAND BARRICADE LLC	\$ 41.24
LOWE'S	\$ 68.98
MAC EQUIPMENT	\$ 947.77
MARES AUTO INC.	\$ 100.00
MARIPOSA PLANTS	\$ 85.00
MCDONALD FARMS ENTERPRISES INC.	\$ 3,600.00
MILLIKEN JOHNSTOWN ELECTRIC	\$ 779.55
MIRACLE RECREATION EQUIPMENT	\$ 3,460.69
NAPA AUTO PARTS	\$ 250.49
OLDCASTLE PRECAST	\$ 4,020.00
OFFICE DEPOT	\$ 345.14

PITNEY BOWES	\$	98.55
POUDRE VALLEY REA	\$	10,458.70
QUILL	\$	363.69
REEDESIGN CONCEPTS	\$	70.00
RHINEHART OIL	\$	6,748.68
RHS AFTER PROM	\$	250.00
ROYAL-T	\$	85.00
SECURITY CENTRAL	\$	207.00
SIRCHIE	\$	53.73
SOUTHWEST DIRECT INC	\$	3,568.63
STATE OF COLORADO - DRIVER SERVICES/TRAFFIC RECORDS	\$	300.00
SUPPLY WORKS	\$	852.68
TDS	\$	434.31
THE GARD LATERAL DITCH COMPANY	\$	525.00
TRUGREEN COMMERICAL	\$	1,076.25
UNITED POWER	\$	749.10
UNIVERSITY OF COLORADO MEDICAL CENTER OF THE ROCKIES	\$	141.70
USA BLUEBOOK	\$	371.04
UTILITY NOTIFICATION CENTER	\$	833.75
VERIZON WIRELESS	\$	1,854.10
WAGNER EQUIPMENT	\$	73,072.35
WASTE MANAGEMENT	\$	53,558.15
WELD COUNTY ACCOUNTING	\$	26,532.44
WELD COUNTY DEPT OF PUBLIC HEALTH	\$	7,170.50
WINDSTREAM	\$	1,742.56
WINTERS, HELLERICH & HUGHES	\$	2,860.00
XCEL ENERGY	\$	41,210.37
YOST CLEANING	\$	1,972.00
	\$	341,879.20

**MARCH
FINANCIAL
STATEMENTS**

EXECUTIVE SUMMARY MARCH 2018

25.00%

	Actual	Budget	Variance	%
GENERAL				
<u>Revenues</u>	3,985,174.00	10,203,800.00	6,218,626.00	39%
<u>Expenditures</u>				
Legislative	5,801.00	37,800.00	31,999.00	15%
Judicial	7,430.00	50,100.00	42,670.00	15%
Elections	1,031.00	18,600.00	17,569.00	6%
Administration	94,261.00	429,100.00	334,839.00	22%
Planning & Zoning	53,642.00	218,000.00	164,358.00	25%
Police	533,465.00	2,332,100.00	1,798,635.00	23%
Protective Inspections	34,415.00	205,800.00	171,385.00	17%
Streets	267,742.00	1,512,300.00	1,244,558.00	18%
Cemetery	2,183.00	41,000.00	38,817.00	5%
Animal Control	18,798.00	95,200.00	76,402.00	20%
Senior Coordinator	20,329.00	73,600.00	53,271.00	28%
Parks	2,015.00	67,000.00	64,985.00	3%
Community	39,779.00	879,300.00	839,521.00	5%
Transfers	174,006.00	24,223,700.00	24,049,694.00	1%
<u>Total Expenditures</u>	1,254,897.00	30,183,600.00	28,928,703.00	4%
Excess Revenues over Expenditures	2,730,277.00			

EXECUTIVE SUMMARY MARCH 2018

25%

		Actual	Budget	Variance	%
WATER					
<u>Revenues</u>		888,373.00	2,908,700.00	2,020,327.00	31%
<u>Expenditures</u>					
	Administration	45,338.00	259,800.00	214,462.00	17%
	Operations	225,283.00	1,451,500.00	1,226,217.00	16%
		270,621.00	1,711,300.00	1,440,679.00	16%
Excess Revenues over Expenditures		617,752.00			

EXECUTIVE SUMMARY MARCH 2018

25.00%

	Actual	Budget	Variance	%
WASTEWATER				
Revenues	537,836.00	1,885,000.00	1,347,164.00	29%
Expenditures				
Administration	48,818.00	295,400.00	246,582.00	17%
Operation	189,216.00	1,727,800.00	1,538,584.00	11%
	238,034.00	2,023,200.00	1,785,166.00	12%
Excess Revenues over Expenditures	299,802.00			

TOWN OF JOHNSTOWN
REVENUES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
<u>TAXES</u>					
01-01-4010-00 GEN. PROPERTY ACCOUNTS	1,812,717.37	1,873,446.17	4,250,000.00	2,376,553.83	44.1
01-01-4020-00 SPECIFIC OWNERSHIP TAXES	30,947.06	92,676.29	280,000.00	187,323.71	33.1
01-01-4030-00 FRANCHISE TAXES	36,817.70	122,220.04	395,000.00	272,779.96	30.9
01-01-4040-00 PENALTIES & INTEREST	(2,360.21)	(2,131.57)	3,000.00	5,131.57	(71.1)
01-01-4070-00 SALES TAX	319,998.74	1,082,786.73	3,200,000.00	2,117,213.27	33.8
01-01-4075-00 LODGING TAX	8,521.03	20,936.55	85,000.00	64,063.45	24.6
01-01-4080-00 SEVERANCE TAX	.00	.00	50,000.00	50,000.00	.0
TOTAL TAXES	2,206,641.69	3,189,934.21	8,263,000.00	5,073,065.79	38.6
<u>LICENSES & PERMITS</u>					
01-02-4110-00 LIQUOR LICENSE	100.00	450.00	1,800.00	1,350.00	25.0
01-02-4120-00 BUS. LIC. & PERMITS - OTHE	1,089.63	13,810.26	14,000.00	189.74	98.6
01-02-4130-00 BUILDING PERMITS	66,647.66	281,326.39	475,000.00	193,673.61	59.2
01-02-4140-00 DOG LICENSE & PERMITS OTHE	264.00	778.00	2,300.00	1,522.00	33.8
01-02-4150-00 FINGERPRINTING	45.00	241.00	200.00	(41.00)	120.5
TOTAL LICENSES & PERMITS	68,146.29	296,605.65	493,300.00	196,694.35	60.1
<u>INTERGOVERNMENTAL</u>					
01-03-4210-00 CIGARETTE TAXES	1,264.84	4,040.31	14,000.00	9,959.69	28.9
01-03-4220-00 HIGHWAY USERS TAX	38,530.98	114,945.87	380,000.00	265,054.13	30.3
01-03-4230-00 ADD. VEH. REG. FEE	4,680.50	13,334.00	45,000.00	31,666.00	29.6
01-03-4240-00 COUNTY ROAD & BRIDGE	.00	58,952.20	90,000.00	31,047.80	65.5
TOTAL INTERGOVERNMENTAL	44,476.32	191,272.38	529,000.00	337,727.62	36.2
<u>CHARGES FOR SERVICES</u>					
01-04-4310-00 CEMETERY LOTS AND CARE	6,250.50	12,815.50	22,000.00	9,184.50	58.3
01-04-4320-00 TRASH CHARGES	53,234.35	159,496.15	640,000.00	480,503.85	24.9
01-04-4330-00 OTHER SERVICES	2,128.90	2,967.55	900.00	(2,067.55)	329.7
01-04-4340-00 FISHING PERMITS	55.00	55.00	600.00	545.00	9.2
TOTAL CHARGES FOR SERVICES	61,668.75	175,334.20	663,500.00	488,165.80	26.4
<u>FINES</u>					
01-05-4315-00 COURT FEES REFUND	(20.00)	(335.00)	.00	335.00	.0
01-05-4410-00 MUNICIPAL COURT FINES & FE	13,764.95	33,188.36	120,000.00	86,811.64	27.7
01-05-4420-00 SURCHARGE	1,765.00	4,460.00	18,000.00	13,540.00	24.8
TOTAL FINES	15,509.95	37,313.36	138,000.00	100,686.64	27.0

TOWN OF JOHNSTOWN
REVENUES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
<u>MISCELLANEOUS</u>					
01-06-4510-00 COMM. CENTER RENTAL FEES	2,070.00	5,797.00	11,000.00	5,203.00	52.7
01-06-4530-00 REFUND OF EXPENDITURES	4,144.75	15,204.72	5,000.00	(10,204.72)	304.1
01-06-4570-00 SCHOOL DISTRICT	.00	.00	31,000.00	31,000.00	.0
TOTAL MISCELLANEOUS	6,214.75	21,001.72	47,000.00	25,998.28	44.7
<u>EARNINGS ON INVESTMENTS</u>					
01-07-4610-00 EARNINGS ON INVESTMENTS	15,179.45	39,671.39	65,000.00	25,328.61	61.0
TOTAL EARNINGS ON INVESTMENTS	15,179.45	39,671.39	65,000.00	25,328.61	61.0
<u>SOURCE 08</u>					
01-08-4530-00 DEVELOPERS COST PAYMENT	4,770.36	35,803.99	5,000.00	(30,803.99)	716.1
TOTAL SOURCE 08	4,770.36	35,803.99	5,000.00	(30,803.99)	716.1
TOTAL FUND REVENUE	2,422,607.56	3,986,936.90	10,203,800.00	6,216,863.10	39.1

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>LEGISLATIVE</u>					
01-10-5010-00 BOARD MEMBERS COMPENSATION	3,550.00	4,250.00	22,800.00	18,550.00	18.6
01-10-5050-00 PAYROLL TAXES	271.62	325.16	1,800.00	1,474.84	18.1
01-10-5070-00 WORKMEN'S COMPENSATION	69.62	208.83	1,200.00	991.17	17.4
01-10-6511-00 TRAINING	278.00	588.00	3,000.00	2,412.00	19.6
01-10-6522-00 INSURANCE	.00	250.00	1,000.00	750.00	25.0
01-10-6544-03 EQUIPMENT/SOFTWARE - IPADS	89.71	179.42	2,500.00	2,320.58	7.2
01-10-8016-00 PROFESSIONAL SERVICES	.00	.00	4,000.00	4,000.00	.0
01-10-9028-00 COUNCIL OUTREACH	.00	.00	1,500.00	1,500.00	.0
TOTAL LEGISLATIVE	4,258.95	5,801.41	37,800.00	31,998.59	15.4
<u>JUDICIAL</u>					
01-15-5011-00 SAL-JUDGE	1,687.50	3,187.50	17,000.00	13,812.50	18.8
01-15-5012-00 SAL-PROS. ATT.	2,953.75	3,943.75	32,000.00	28,056.25	12.3
01-15-6505-00 OFFICE EXPENSES	.00	299.00	1,000.00	701.00	29.9
01-15-8016-00 PROFESSIONAL SERVICES	.00	.00	100.00	100.00	.0
TOTAL JUDICIAL	4,641.25	7,430.25	50,100.00	42,669.75	14.8
<u>ELECTIONS</u>					
01-20-6413-00 PUBLISHING	.00	25.00	700.00	675.00	3.6
01-20-6526-00 SUPPLIES	913.42	1,006.42	17,000.00	15,993.58	5.9
01-20-8017-00 ELECTION JUDGES	.00	.00	900.00	900.00	.0
TOTAL ELECTIONS	913.42	1,031.42	18,600.00	17,568.58	5.6

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>ADMINISTRATION</u>					
01-25-5010-00 SALARIES	8,579.28	19,861.22	97,000.00	77,138.78	20.5
01-25-5010-03 OVERTIME	.00	.00	600.00	600.00	.0
01-25-5011-00 PART TIME OFFICE	518.71	1,182.66	7,500.00	6,317.34	15.8
01-25-5012-00 HOURLY COMMUNICATIONS STAFF	1,428.60	3,181.34	18,000.00	14,818.66	17.7
01-25-5015-00 CLEANING SALARIES	216.67	650.01	3,500.00	2,849.99	18.6
01-25-5025-00 MANAGER	6,606.03	15,329.38	57,100.00	41,770.62	26.9
01-25-5050-00 PAYROLL TAXES	1,292.84	2,973.12	14,300.00	11,326.88	20.8
01-25-5060-00 RETIREMENT FUND	1,200.15	2,780.49	12,800.00	10,019.51	21.7
01-25-5065-00 HEALTH INSURANCE	1,828.87	5,370.04	33,000.00	27,629.96	16.3
01-25-5070-00 WORKMAN'S COMPENSATION	69.62	208.83	1,000.00	791.17	20.9
01-25-6010-00 UTILITIES	283.59	588.09	6,000.00	5,411.91	9.8
01-25-6505-00 OFFICE EXPENSE	453.94	1,020.87	6,700.00	5,679.13	15.2
01-25-6506-00 UTILITY BILL MAILING	693.47	1,386.78	8,300.00	6,913.22	16.7
01-25-6510-00 TELEPHONE	153.65	304.37	2,000.00	1,695.63	15.2
01-25-6511-00 TRAINING	.00	20.00	1,000.00	980.00	2.0
01-25-6513-00 PUBLISHING	.00	27.00	5,000.00	4,973.00	.5
01-25-6515-00 DUES AND SUBSCRIPTIONS	(92.96)	2,231.04	2,900.00	668.96	76.9
01-25-6518-00 CLEANING SUPPLIES	106.50	210.31	1,700.00	1,489.69	12.4
01-25-6520-00 MILEAGE & EXPENSES	.00	13.22	2,000.00	1,986.78	.7
01-25-6522-00 INSURANCE & BONDS	.00	3,000.00	15,700.00	12,700.00	19.1
01-25-6544-05 SOFTWARE	.00	.00	3,000.00	3,000.00	.0
01-25-6544-07 MISC. OFFICE EQPT.	.00	.00	500.00	500.00	.0
01-25-7020-00 MAINTENANCE & REPAIRS	5.38	161.63	3,800.00	3,638.37	4.3
01-25-8010-00 AUDIT	.00	.00	3,000.00	3,000.00	.0
01-25-8012-00 COMPUTER PROFESSIONAL SERV	485.81	1,403.91	10,500.00	9,096.09	13.4
01-25-8014-00 LEGAL	1,237.00	5,071.00	42,000.00	36,929.00	12.1
01-25-8015-00 TAPING MEETINGS	533.68	1,067.36	7,000.00	5,932.64	15.3
01-25-8016-00 SALARY STUDY FEES	.00	.00	1,500.00	1,500.00	.0
01-25-8017-00 PROFESSIONAL SERVICES	.00	.00	2,000.00	2,000.00	.0
01-25-8019-00 TREASURER'S FEES	25,415.93	26,218.56	59,000.00	32,781.44	44.4
01-25-9028-00 COMMUNICATIONS	.00	.00	700.00	700.00	.0
 TOTAL ADMINISTRATION	 51,016.76	 94,261.23	 429,100.00	 334,838.77	 22.0

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>PLANNING & ZONING</u>					
01-30-5010-00 SALARIES	14,073.00	32,656.58	132,000.00	99,343.42	24.7
01-30-5050-00 PAYROLL TAXES	1,062.84	2,457.46	10,000.00	7,542.54	24.6
01-30-5060-00 RETIREMENT FUND	1,299.72	3,016.01	12,100.00	9,083.99	24.9
01-30-5065-00 HEALTH INSURANCE	1,420.14	4,179.83	26,000.00	21,820.17	16.1
01-30-5070-00 WORKMENS COMPENSATION	69.62	208.83	1,700.00	1,491.17	12.3
01-30-6010-00 UTILITIES	136.54	283.15	3,000.00	2,716.85	9.4
01-30-6505-00 OFFICE SUPPLIES	185.25	262.20	2,500.00	2,237.80	10.5
01-30-6510-00 TELEPHONE	136.35	269.76	1,400.00	1,130.24	19.3
01-30-6511-00 TRAINING	.00	.00	500.00	500.00	.0
01-30-6513-00 PUBLISH/RECORD	.00	.00	200.00	200.00	.0
01-30-6515-00 DUES/SUBSCRIPTIONS	.00	.00	800.00	800.00	.0
01-30-6520-00 MILEAGE & EXPENSES	.00	.00	100.00	100.00	.0
01-30-6522-00 INSURANCE AND BONDS	.00	700.00	3,000.00	2,300.00	23.3
01-30-6544-04 MACHINERY AND EQPT.	.00	.00	300.00	300.00	.0
01-30-8012-00 COMPUTER PROFESSIONAL SERVICES	156.80	470.40	2,000.00	1,529.60	23.5
01-30-8016-00 PROFESSIONAL SERVICES	.00	156.26	15,500.00	15,343.74	1.0
01-30-8017-00 NORTH FRONT RANGE MPO	.00	8,982.00	6,900.00	(2,082.00)	130.2
TOTAL PLANNING & ZONING	18,540.26	53,642.48	218,000.00	164,357.52	24.6

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>POLICE</u>					
01-35-5010-00 SALARIES	151,427.83	341,759.53	1,375,000.00	1,033,240.47	24.9
01-35-5010-03 OVERTIME PAY	274.54	1,564.46	13,500.00	11,935.54	11.6
01-35-5013-00 CLERICAL SALARIES	4,333.74	10,043.48	37,700.00	27,656.52	26.6
01-35-5015-00 PART-TIME SALARIES	6,571.09	14,550.75	59,000.00	44,449.25	24.7
01-35-5050-00 PAYROLL TAXES	12,282.42	27,666.12	114,000.00	86,333.88	24.3
01-35-5060-00 RETIREMENT	8,774.42	19,807.90	80,000.00	60,192.10	24.8
01-35-5065-00 HEALTH INSURANCE	21,874.85	61,252.95	341,000.00	279,747.05	18.0
01-35-5070-00 WORKMEN'S COMPENSATION	2,784.80	8,353.20	40,000.00	31,646.80	20.9
01-35-6010-00 UTILITIES	1,585.26	3,380.16	14,000.00	10,619.84	24.1
01-35-6505-00 OFFICE EXPENSE	573.47	1,706.86	6,800.00	5,093.14	25.1
01-35-6510-00 TELEPHONE	574.93	1,146.16	10,500.00	9,353.84	10.9
01-35-6511-00 TRAINING	258.58	603.58	11,000.00	10,396.42	5.5
01-35-6513-00 PUBLISHING	364.79	364.79	1,500.00	1,135.21	24.3
01-35-6515-00 DUES AND SUBSCRIPTIONS	.00	35.00	1,200.00	1,165.00	2.9
01-35-6518-00 CLEANING SERVICES	643.16	1,878.90	8,500.00	6,621.10	22.1
01-35-6522-00 INSURANCE AND BONDS	.00	11,500.00	50,500.00	39,000.00	22.8
01-35-6524-00 GAS AND OIL	2,496.63	6,207.46	26,400.00	20,192.54	23.5
01-35-6526-00 OPERATING SUPPLIES	300.26	300.26	6,500.00	6,199.74	4.6
01-35-6527-00 UNIFORMS AND CLEANING	97.89	562.89	9,000.00	8,437.11	6.3
01-35-6528-00 WELD COUNTY MAINT. AGREEME	.00	.00	26,500.00	26,500.00	.0
01-35-6544-02 COMPUTER SYSTEMS	.00	.00	2,500.00	2,500.00	.0
01-35-6544-04 RADAR GUNS	80.00	80.00	2,500.00	2,420.00	3.2
01-35-6544-06 VESTS	.00	.00	5,000.00	5,000.00	.0
01-35-6544-07 CAMERA & INVESTIGATION EQPT.	.00	.00	3,500.00	3,500.00	.0
01-35-6544-09 SHOOTING RANGE SUPPLIES	.00	.00	3,600.00	3,600.00	.0
01-35-6544-10 OFFICE IMPROVEMENTS	.00	.00	3,000.00	3,000.00	.0
01-35-6544-11 POLICE EQUIPMENT	1,302.96	1,414.44	10,000.00	8,585.56	14.1
01-35-7010-00 BLDG. REPAIR & MAINT.	572.74	725.00	8,000.00	7,275.00	9.1
01-35-7020-00 REPAIRS AND MAINTENANCE	971.43	2,323.66	13,500.00	11,176.34	17.2
01-35-8012-00 COMP. PROFESSIONAL SERVICE	375.39	1,021.35	10,000.00	8,978.65	10.2
01-35-8014-00 LEGAL	.00	.00	2,500.00	2,500.00	.0
01-35-8016-00 PROFESSIONAL SERVICES	1,328.32	1,798.32	5,000.00	3,201.68	36.0
01-35-8017-00 JUVENILE ASSESSMENT CENTER	5,340.00	5,340.00	5,400.00	60.00	98.9
01-35-8021-00 COMP. LINK TO RECORDS	2,389.43	3,283.86	10,500.00	7,216.14	31.3
01-35-9022-00 JAIL FEES	107.28	107.28	1,500.00	1,392.72	7.2
01-35-9028-00 COMMUNITY SERVICES	.00	.00	2,000.00	2,000.00	.0
01-35-9028-01 TASK FORCE	.00	.00	2,000.00	2,000.00	.0
01-35-9028-03 RECORDS CONTRACT	.00	4,686.18	9,000.00	4,313.82	52.1
TOTAL POLICE	227,686.21	533,464.54	2,332,100.00	1,798,635.46	22.9

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>PROTECTIVE INSPECTIONS</u>					
01-40-5010-00 SALARIES	3,844.03	8,920.11	37,600.00	28,679.89	23.7
01-40-5050-00 PAYROLL TAXES	289.08	667.60	2,900.00	2,232.40	23.0
01-40-5060-00 RETIREMENT	162.81	377.80	1,600.00	1,222.20	23.6
01-40-5065-00 HEALTH INSURANCE	506.58	1,486.71	7,000.00	5,513.29	21.2
01-40-5070-00 WORKMEN'S COMPENSATION	69.62	208.83	1,400.00	1,191.17	14.9
01-40-6010-00 UTILITIES	178.53	370.23	3,900.00	3,529.77	9.5
01-40-6505-00 OFFICE EXPENSE	32.21	216.30	3,800.00	3,583.70	5.7
01-40-6510-00 TELEPHONE	136.34	269.75	1,600.00	1,330.25	16.9
01-40-6511-00 TRAINING	.00	.00	500.00	500.00	.0
01-40-6513-00 PUBLISHING	.00	.00	500.00	500.00	.0
01-40-6515-00 DUES & SUBSCRIPTIONS	25.00	25.00	200.00	175.00	12.5
01-40-6518-00 CLEANING & SUPPLIES	62.59	166.40	1,000.00	833.60	16.6
01-40-6522-00 INSURANCE AND BONDS	.00	1,800.00	8,700.00	6,900.00	20.7
01-40-6526-00 OPERATING SUPPLIES	.00	.00	2,000.00	2,000.00	.0
01-40-7020-00 REPAIR & MAINTENANCE	.00	156.28	2,000.00	1,843.72	7.8
01-40-8012-00 COMP. PROF. SERVICES	336.80	950.40	3,600.00	2,649.60	26.4
01-40-8014-00 LEGAL	.00	.00	500.00	500.00	.0
01-40-8016-00 PROFESSIONAL SERVICES	9,400.00	18,800.00	127,000.00	108,200.00	14.8
 TOTAL PROTECTIVE INSPECTIONS	 15,043.59	 34,415.41	 205,800.00	 171,384.59	 16.7

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>STREETS</u>					
01-45-5010-00 SALARIES	28,395.29	68,113.92	303,000.00	234,886.08	22.5
01-45-5010-03 OVERTIME	262.73	509.53	7,000.00	6,490.47	7.3
01-45-5015-00 PART-TIME SALARIES	147.90	147.90	15,000.00	14,852.10	1.0
01-45-5050-00 PAYROLL TAXES	2,143.46	5,075.20	26,000.00	20,924.80	19.5
01-45-5060-00 RETIREMENT FUND	1,729.71	4,023.98	19,000.00	14,976.02	21.2
01-45-5065-00 HEALTH INSURANCE	5,717.61	17,492.52	82,000.00	64,507.48	21.3
01-45-5070-00 WORKMEN'S COMPENSATION	1,670.88	5,011.92	19,100.00	14,088.08	26.2
01-45-6010-00 UTILITIES	1,083.69	2,318.40	10,000.00	7,681.60	23.2
01-45-6015-00 UTILITIES - STREET LIGHTIN	15,241.39	33,385.06	243,000.00	209,614.94	13.7
01-45-6505-00 OFFICE EXPENSE	.00	.00	600.00	600.00	.0
01-45-6510-00 TELEPHONE	396.91	791.49	3,600.00	2,808.51	22.0
01-45-6511-00 TRAINING	.00	370.00	1,500.00	1,130.00	24.7
01-45-6515-00 DUES & SUBSCRIPTIONS	.00	.00	1,500.00	1,500.00	.0
01-45-6518-00 CLEANING SUPPLIES	87.78	263.34	1,600.00	1,336.66	16.5
01-45-6522-00 INSURANCE AND BONDS	.00	7,000.00	29,700.00	22,700.00	23.6
01-45-6524-00 GAS & OIL	329.35	1,933.03	14,000.00	12,066.97	13.8
01-45-6526-00 OPERATING SUPPLIES	560.53	1,199.89	4,500.00	3,300.11	26.7
01-45-6530-00 SNOW AND ICE REMOVAL	623.66	8,864.14	35,000.00	26,135.86	25.3
01-45-6532-00 TRASH SERVICE	53,134.08	106,257.34	640,000.00	533,742.66	16.6
01-45-6534-00 WEED CONTROL	.00	.00	2,500.00	2,500.00	.0
01-45-6536-00 STREET SIGNS	.00	.00	3,500.00	3,500.00	.0
01-45-6544-03 EQUIPMENT	.00	.00	4,000.00	4,000.00	.0
01-45-6544-06 HOLIDAY DECORATIONS	.00	1,406.86	7,500.00	6,093.14	18.8
01-45-6544-07 TOOLS	.00	30.59	2,500.00	2,469.41	1.2
01-45-6544-09 SAFETY EQUIPMENT	.00	.00	4,000.00	4,000.00	.0
01-45-7020-00 REP & MAINT - EQUIP & BLDG	1,384.46	2,394.01	25,000.00	22,605.99	9.6
01-45-7030-00 REPAIR & MAINT. BLDGS.	86.09	86.09	3,000.00	2,913.91	2.9
01-45-8012-00 COMPUTER PROFESSIONAL SERVICES	219.95	539.85	1,200.00	660.15	45.0
01-45-8016-00 PROFESSIONAL SERVICES	315.95	526.80	3,000.00	2,473.20	17.6
TOTAL STREETS	113,531.42	267,741.86	1,512,300.00	1,244,558.14	17.7

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>CEMETERY</u>					
01-50-5015-00 SALARIES	.00	.00	12,000.00	12,000.00	.0
01-50-5050-00 PAYROLL TAXES	.00	.00	1,000.00	1,000.00	.0
01-50-5070-00 WORKMEN'S COMPENSATION	348.10	1,044.15	1,500.00	455.85	69.6
01-50-6513-00 PUBLISHING	.00	.00	300.00	300.00	.0
01-50-6522-00 INSURANCE	.00	500.00	2,200.00	1,700.00	22.7
01-50-6524-00 GAS & OIL	.00	.00	1,900.00	1,900.00	.0
01-50-6526-00 SUPPLIES	40.21	40.21	2,200.00	2,159.79	1.8
01-50-6533-00 TREE TRIMMING	.00	.00	4,000.00	4,000.00	.0
01-50-6534-00 FERTILIZER & WEED CONTROL	.00	.00	5,000.00	5,000.00	.0
01-50-6544-03 SPINTRIMMER	.00	.00	800.00	800.00	.0
01-50-6544-05 TOOLS	.00	.00	400.00	400.00	.0
01-50-6544-06 TREES	.00	.00	2,000.00	2,000.00	.0
01-50-7020-00 REPAIRS AND MAINTENANCE	598.58	598.58	3,500.00	2,901.42	17.1
01-50-7025-00 SPRINKLER REPAIR	.00	.00	3,700.00	3,700.00	.0
01-50-8016-00 PROFESSIONAL SERVICES	.00	.00	500.00	500.00	.0
TOTAL CEMETERY	986.89	2,182.94	41,000.00	38,817.06	5.3
<u>ANIMAL CONTROL</u>					
01-55-5010-00 SALARIES	5,727.00	13,294.01	50,000.00	36,705.99	26.6
01-55-5010-03 OVERTIME	.00	.00	500.00	500.00	.0
01-55-5050-00 PAYROLL TAXES	430.64	994.81	3,900.00	2,905.19	25.5
01-55-5060-00 RET BEN	242.58	563.09	2,200.00	1,636.91	25.6
01-55-5065-00 HEALTH BEN	759.46	2,228.87	12,000.00	9,771.13	18.6
01-55-5070-00 WORKMENS COMPENSATION	69.62	208.83	1,800.00	1,591.17	11.6
01-55-6522-00 INSURANCE	.00	900.00	4,100.00	3,200.00	22.0
01-55-6524-00 GAS AND OIL	216.89	500.66	2,000.00	1,499.34	25.0
01-55-6526-00 SUPPLIES	108.00	108.00	1,200.00	1,092.00	9.0
01-55-7020-00 REPAIR & MAINTENANCE	.00	.00	1,500.00	1,500.00	.0
01-55-7030-00 WEED/NUISANCE CONTROL	.00	.00	9,000.00	9,000.00	.0
01-55-8016-00 PROFESSIONAL SERVICES	.00	.00	7,000.00	7,000.00	.0
TOTAL ANIMAL CONTROL	7,554.19	18,798.27	95,200.00	76,401.73	19.8
<u>SENIOR COORDINATOR PROGRAM</u>					
01-60-5015-00 PART-TIME SALARIES	4,776.24	11,090.71	41,800.00	30,709.29	26.5
01-60-5050-00 PAYROLL TAXES	357.92	826.28	3,200.00	2,373.72	25.8
01-60-5065-00 HEALTH INSURANCE	695.71	2,040.75	8,500.00	6,459.25	24.0
01-60-5070-00 WORKMEN'S COMPENSATION	69.62	208.83	1,200.00	991.17	17.4
01-60-6010-00 UTILITIES	457.65	940.74	4,500.00	3,559.26	20.9
01-60-6510-00 TELEPHONE	119.15	237.88	1,500.00	1,262.12	15.9
01-60-6520-00 MILEAGE	154.45	548.18	3,200.00	2,651.82	17.1
01-60-6522-00 INSURANCE	2,496.00	3,296.00	4,000.00	704.00	82.4
01-60-7020-00 REPAIR & MAINTENANCE	379.73	1,139.19	5,700.00	4,560.81	20.0
TOTAL SENIOR COORDINATOR PROGRAM	9,506.47	20,328.56	73,600.00	53,271.44	27.6

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>PARKS</u>					
01-65-5015-00 PART-TIME SALARIES	147.90	147.90	22,000.00	21,852.10	.7
01-65-5050-00 PAYROLL TAXES	11.31	11.31	1,800.00	1,788.69	.6
01-65-5070-00 WORKMEN'S COMPENSATION	139.24	417.66	2,000.00	1,582.34	20.9
01-65-6010-00 UTILITIES	211.21	473.97	7,000.00	6,526.03	6.8
01-65-6511-00 TRAINING	.00	.00	500.00	500.00	.0
01-65-6522-00 INSURANCE AND BONDS	.00	600.00	2,400.00	1,800.00	25.0
01-65-6524-00 GAS AND OIL	.00	.00	1,800.00	1,800.00	.0
01-65-6526-00 SUPPLIES	364.30	364.30	2,500.00	2,135.70	14.6
01-65-6534-00 FERTILIZER AND WEED CONTROL	.00	.00	13,000.00	13,000.00	.0
01-65-6542-00 PORTA-LETS	.00	.00	2,200.00	2,200.00	.0
01-65-6544-01 MOWER	.00	.00	1,000.00	1,000.00	.0
01-65-6544-02 SPIN TRIMMER	.00	.00	800.00	800.00	.0
01-65-7020-00 REPAIRS AND MAINTENANCE	.00	.00	5,000.00	5,000.00	.0
01-65-7025-00 SPRINKLER REPAIRS	.00	.00	5,000.00	5,000.00	.0
TOTAL PARKS	873.96	2,015.14	67,000.00	64,984.86	3.0
<u>LIBRARY</u>					
01-70-7000-00 TOWN SUPPORT-LIBRARY	37,500.00	112,500.00	450,000.00	337,500.00	25.0
TOTAL LIBRARY	37,500.00	112,500.00	450,000.00	337,500.00	25.0
<u>DEPARTMENT 75</u>					
01-75-6526-00 COMMUNITY CENTER SUPPLIES	164.53	530.29	6,000.00	5,469.71	8.8
01-75-7020-00 COMMUNITY CENTER REPAIR	315.58	921.58	9,000.00	8,078.42	10.2
01-75-7025-00 COMMUNITY CENTER UTILITIES	457.66	940.75	6,500.00	5,559.25	14.5
01-75-7031-00 DOWNTOWN BEAUTIFICATION	68.45	68.45	27,000.00	26,931.55	.3
01-75-7040-00 OWNERS REP/YMCA - REC. CENTER	8,064.00	8,203.50	250,000.00	241,796.50	3.3
01-75-7041-00 GRANT MATCH	.00	.00	5,000.00	5,000.00	.0
01-75-7051-00 MUSEUM IMPR.	.00	.00	25,000.00	25,000.00	.0
01-75-7054-00 TOWN HALL IMPROVEMENTS	.00	.00	8,000.00	8,000.00	.0
01-75-7055-00 ECONOMIC DEVELOPMENT CONT.	6,000.00	7,000.00	7,000.00	.00	100.0
01-75-7056-00 CITIZEN/BUSINESS OUTREACH COOR	.00	.00	12,000.00	12,000.00	.0
01-75-7066-00 WEB SITE CONSULTANT	.00	.00	8,900.00	8,900.00	.0
01-75-7070-00 BARBEQUE DAYS CONTRIBUTION	.00	20,000.00	30,000.00	10,000.00	66.7
01-75-7080-00 MOSQUITO SPRAYING	.00	.00	19,000.00	19,000.00	.0
01-75-7090-00 INSURANCE DEDUCTIBLES	142.50	1,611.67	17,000.00	15,388.33	9.5
01-75-7100-00 SEPARATION BENEFITS	.00	.00	365,400.00	365,400.00	.0
01-75-7125-00 GROUNDS MAINTENANCE	.00	.00	16,000.00	16,000.00	.0
01-75-7129-00 NEWSLETTER/COMMUNICATION	.00	.00	10,000.00	10,000.00	.0
01-75-7130-00 TOWN HALL MAINT. AGREEMENT	134.60	502.65	5,000.00	4,497.35	10.1
01-75-7131-00 SAFETY AWARD PROGRAM	.00	.00	2,500.00	2,500.00	.0
01-75-7133-00 DOWNTOWN FACADE GRANT PROGRAM	.00	.00	5,000.00	5,000.00	.0
01-75-7137-00 402 INTERCHANGE BEN. ANALYSIS	.00	.00	45,000.00	45,000.00	.0
TOTAL DEPARTMENT 75	15,347.32	39,778.89	879,300.00	839,521.11	4.5

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>TRANSFERS OUT</u>					
01-80-7040-00 TRANSFER WATER FUND	220.20	220.20	187,700.00	187,479.80	.1
01-80-7050-00 TRANSFER - CONTINGENT FUND	.00	.00	225,000.00	225,000.00	.0
01-80-7056-00 COMMUNITY RECREATION CENTER	.00	.00	22,000,000.00	22,000,000.00	.0
01-80-7080-00 TRANSFER TO DEVELOPERS COST	.00	.00	25,000.00	25,000.00	.0
01-80-7081-00 FUNDING I-25 IMPROVEMENTS	13,676.73	13,676.73	16,000.00	2,323.27	85.5
01-80-7110-00 SALES TAX REFUND	.00	47,608.86	320,000.00	272,391.14	14.9
01-80-7115-00 TRANSFER TO EQPT. REPLACEMENT	.00	.00	1,000,000.00	1,000,000.00	.0
TOTAL TRANSFERS OUT	13,896.93	61,505.79	23,773,700.00	23,712,194.21	.3
TOTAL FUND EXPENDITURES	521,297.62	1,254,898.19	30,183,600.00	28,928,701.81	4.2
NET REVENUE OVER EXPENDITURES	1,901,309.94	2,732,038.71	(19,979,800.00)	(22,711,838.71)	13.7

TOWN OF JOHNSTOWN
REVENUES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

WATER FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
02-00-4310-00 WATER CHARGES	119,202.55	351,769.15	2,500,000.00	2,148,230.85	14.1
02-00-4320-00 WATER TAP FEES	107,961.42	136,041.32	.00	(136,041.32)	.0
02-00-4322-00 RAW WATER DEV. FEE	100,777.00	307,007.80	.00	(307,007.80)	.0
02-00-4325-00 WATER REFUNDS	(1,010.33)	(1,781.62)	.00	1,781.62	.0
02-00-4330-00 MISCELLANEOUS	23,428.84	66,652.24	150,000.00	83,347.76	44.4
02-00-4610-00 EARNINGS ON INVESTMENTS	11,348.19	28,463.53	71,000.00	42,536.47	40.1
02-00-4830-00 TRANSFER FROM GENERAL FUND	220.20	220.20	187,700.00	187,479.80	.1
TOTAL SOURCE 00	361,927.87	888,372.62	2,908,700.00	2,020,327.38	30.5
TOTAL FUND REVENUE	361,927.87	888,372.62	2,908,700.00	2,020,327.38	30.5

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

WATER FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>ADMINISTRATION</u>					
02-25-5010-00 SALARIES	4,957.72	11,475.83	65,000.00	53,524.17	17.7
02-25-5010-03 OVERTIME	.00	.00	300.00	300.00	.0
02-25-5015-00 PART-TIME SALARIES	518.71	1,182.66	7,500.00	6,317.34	15.8
02-25-5020-00 JANITORIAL SALARIES	216.67	650.01	2,700.00	2,049.99	24.1
02-25-5025-00 MANAGER	3,403.11	7,896.96	29,700.00	21,803.04	26.6
02-25-5050-00 PAYROLL TAXES	668.23	1,539.71	8,000.00	6,460.29	19.3
02-25-5060-00 RETIREMENT FUND	665.94	1,542.57	8,100.00	6,557.43	19.0
02-25-5065-00 HEALTH INSURANCE	1,131.34	3,321.90	16,000.00	12,678.10	20.8
02-25-5070-00 WORKMEN'S COMPENSATION	69.62	208.83	1,000.00	791.17	20.9
02-25-6010-00 UTILITIES	168.05	348.49	3,500.00	3,151.51	10.0
02-25-6505-00 OFFICE EXPENSE	233.02	325.94	3,600.00	3,274.06	9.1
02-25-6506-00 UTILITY BILL MAILING	693.47	1,386.77	8,300.00	6,913.23	16.7
02-25-6507-00 BILL PRESENTMENT	.00	.00	10,000.00	10,000.00	.0
02-25-6510-00 TELEPHONE	136.34	269.75	1,700.00	1,430.25	15.9
02-25-6511-00 TRAINING & MEETINGS	.00	.00	500.00	500.00	.0
02-25-6513-00 PUBLISHING	.00	.00	1,000.00	1,000.00	.0
02-25-6515-00 DUES AND SUBSCRIPTIONS	2,229.00	2,229.00	2,700.00	471.00	82.6
02-25-6518-00 CLEANING SUPPLIES	62.59	166.38	1,000.00	833.62	16.6
02-25-6520-00 MILEAGE & EXPENSES	.00	.00	500.00	500.00	.0
02-25-6522-00 INSURANCE & BONDS	.00	1,550.00	7,000.00	5,450.00	22.1
02-25-6544-02 CAPITAL OUTLAY - COMP. SOFT	.00	.00	3,200.00	3,200.00	.0
02-25-6544-04 COMPUTER	.00	.00	1,200.00	1,200.00	.0
02-25-6544-07 MISCELLANEOUS OFFICE	.00	.00	300.00	300.00	.0
02-25-7020-00 REPAIR & MAINT.	.00	156.27	1,000.00	843.73	15.6
02-25-8010-00 AUDIT	.00	.00	3,000.00	3,000.00	.0
02-25-8011-00 PROF. SERV.-WATER ADJUDICATION	3,162.80	3,162.80	30,000.00	26,837.20	10.5
02-25-8012-00 COMP. PROFESSIONAL SERVICES	594.05	4,249.31	8,300.00	4,050.69	51.2
02-25-8014-00 LEGAL	1,162.50	1,922.00	6,000.00	4,078.00	32.0
02-25-8016-00 SALARY STUDY FEES	.00	.00	700.00	700.00	.0
02-25-8017-00 PROFESSIONAL SERVICES	1,753.00	1,753.00	25,000.00	23,247.00	7.0
02-25-9028-00 COMMUNICATIONS	.00	.00	3,000.00	3,000.00	.0
 TOTAL ADMINISTRATION	 21,826.16	 45,338.18	 259,800.00	 214,461.82	 17.5

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

WATER FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>OPERATIONS - WATER FUND</u>					
02-70-5010-00 SALARIES	20,678.06	47,883.33	235,000.00	187,116.67	20.4
02-70-5010-03 OVERTIME	399.82	1,026.52	10,000.00	8,973.48	10.3
02-70-5015-00 PART TIME SALARIES	.00	.00	2,600.00	2,600.00	.0
02-70-5050-00 PAYROLL TAXES	1,570.83	3,617.28	18,900.00	15,282.72	19.1
02-70-5060-00 RETIREMENT FUND	983.29	2,280.49	13,500.00	11,219.51	16.9
02-70-5065-00 HEALTH INSURANCE	4,028.28	12,165.37	65,000.00	52,834.63	18.7
02-70-5070-00 WORKMEN'S COMPENSATION	696.20	2,088.30	8,000.00	5,911.70	26.1
02-70-6010-00 UTILITIES	14,185.29	27,938.96	205,000.00	177,061.04	13.6
02-70-6510-00 TELEPHONE	602.67	1,205.16	8,300.00	7,094.84	14.5
02-70-6511-00 TRAINING	166.48	1,201.48	4,000.00	2,798.52	30.0
02-70-6518-00 CLEANING SUPPLIES	87.77	263.31	1,600.00	1,336.69	16.5
02-70-6522-00 INSURANCE	.00	8,550.63	27,400.00	18,849.37	31.2
02-70-6524-00 GAS AND OIL	599.30	2,058.55	8,800.00	6,741.45	23.4
02-70-6526-00 CHEMICALS	9,111.42	11,598.68	160,000.00	148,401.32	7.3
02-70-6527-00 SUPPLIES-SAFETY EQPT.	47.96	97.42	2,500.00	2,402.58	3.9
02-70-6528-00 OPERATING SUPPLIES	450.77	1,364.47	10,400.00	9,035.53	13.1
02-70-6544-01 METER UPGRADE	28.26	28.26	75,000.00	74,971.74	.0
02-70-6544-02 TOOLS	30.58	30.58	6,500.00	6,469.42	.5
02-70-6544-07 TESTING EQUIPMENT	.00	.00	4,200.00	4,200.00	.0
02-70-6544-08 VEHICLE-PURCHASE	.00	.00	18,500.00	18,500.00	.0
02-70-6544-13 WATER PLANT IMPROVEMENTS	.00	.00	65,000.00	65,000.00	.0
02-70-6544-19 DAF SATURATOR SYSTEM	.00	.00	65,000.00	65,000.00	.0
02-70-6544-22 WATERLINE REPLACEMENT	.00	.00	33,000.00	33,000.00	.0
02-70-6544-29 INSTRUMENTATION UPGRADES	2,601.22	2,601.22	50,000.00	47,398.78	5.2
02-70-6544-36 FIRE HYDRANT REPAIRS	.00	.00	42,000.00	42,000.00	.0
02-70-7015-00 R&M WATERLINES	.00	.00	30,000.00	30,000.00	.0
02-70-7020-00 REPAIRS & MAINTENANCE	6,381.17	6,958.06	80,000.00	73,041.94	8.7
02-70-7022-00 VEHICLE REPAIRS	1,948.75	2,203.89	3,500.00	1,296.11	63.0
02-70-7030-00 PURCHASED WATER	.00	.00	12,700.00	12,700.00	.0
02-70-7031-00 CWCWD EMERGENCY CONNECTION	586.00	1,214.90	7,100.00	5,885.10	17.1
02-70-7035-00 WATER ASSESMENT	13,430.10	85,219.60	118,000.00	32,780.40	72.2
02-70-7090-00 INSURANCE DEDUCTIBLES	.00	1,246.66	10,000.00	8,753.34	12.5
02-70-8012-00 PROFESSIONAL SERVICES	566.50	2,439.47	50,000.00	47,560.53	4.9
TOTAL OPERATIONS - WATER FUND	79,180.72	225,282.59	1,451,500.00	1,226,217.41	15.5
TOTAL FUND EXPENDITURES	101,006.88	270,620.77	1,711,300.00	1,440,679.23	15.8
NET REVENUE OVER EXPENDITURES	260,920.99	617,751.85	1,197,400.00	579,648.15	51.6

TOWN OF JOHNSTOWN
REVENUES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

SEWER FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
03-00-4310-00 SEWER CHARGES	157,891.01	472,295.02	1,825,000.00	1,352,704.98	25.9
03-00-4320-00 SEWER TAP FEES	34,400.00	55,600.00	.00	(55,600.00)	.0
03-00-4330-00 MISCELLANEOUS	2,600.00	5,613.04	10,000.00	4,386.96	56.1
03-00-4610-00 EARNINGS ON INVESTMENTS	1,796.27	4,328.25	50,000.00	45,671.75	8.7
TOTAL SOURCE 00	196,687.28	537,836.31	1,885,000.00	1,347,163.69	28.5
TOTAL FUND REVENUE	196,687.28	537,836.31	1,885,000.00	1,347,163.69	28.5

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

SEWER FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>PERSONNEL</u>					
03-25-5010-00 SALARIES	6,090.94	14,093.15	80,000.00	65,906.85	17.6
03-25-5010-03 OVERTIME	.00	.00	500.00	500.00	.0
03-25-5015-00 PART-TIME SALARIES	518.71	1,182.66	7,500.00	6,317.34	15.8
03-25-5020-00 JANITORIAL SALARIES	216.66	649.98	2,600.00	1,950.02	25.0
03-25-5025-00 MANAGER SALARIES	6,606.06	15,329.44	57,100.00	41,770.56	26.9
03-25-5050-00 PAYROLL TAXES	996.36	2,297.87	11,200.00	8,902.13	20.5
03-25-5060-00 RETIREMENT FUND	1,066.41	2,470.72	11,600.00	9,129.28	21.3
03-25-5065-00 HEALTH INSURANCE	1,504.52	4,417.98	24,200.00	19,782.02	18.3
03-25-5070-00 WORKMEN'S COMPENSATION	69.62	208.83	800.00	591.17	26.1
03-25-6010-00 UTILITIES - TOWN HALL	210.07	435.62	4,400.00	3,964.38	9.9
03-25-6505-00 OFFICE EXPENSES	.00	71.83	3,200.00	3,128.17	2.2
03-25-6506-00 UTILITY BILL MAILING	693.46	1,386.76	7,800.00	6,413.24	17.8
03-25-6507-00 ON LINE BILL PRESENTMENT	.00	.00	8,000.00	8,000.00	.0
03-25-6510-00 TELEPHONE	136.34	269.75	1,800.00	1,530.25	15.0
03-25-6511-00 TRAINING & MEETINGS	.00	.00	700.00	700.00	.0
03-25-6515-00 DUES & SUBSCRIPTIONS	.00	.00	500.00	500.00	.0
03-25-6518-00 CLEANING SUPPLIES	118.43	193.93	1,100.00	906.07	17.6
03-25-6520-00 MILEAGE & EXPENSES	.00	.00	500.00	500.00	.0
03-25-6522-00 INSURANCE & BONDS	.00	1,650.00	7,200.00	5,550.00	22.9
03-25-6544-02 COMPUTER SOFTWARE	.00	.00	3,200.00	3,200.00	.0
03-25-6544-04 CAPITAL OUTLAY - COMPUTER	.00	.00	1,500.00	1,500.00	.0
03-25-6544-07 MISCELLANEOUS OFFICE	.00	.00	400.00	400.00	.0
03-25-7020-00 REPAIR & MAINTENANCE	.00	156.27	800.00	643.73	19.5
03-25-8010-00 AUDIT	.00	.00	5,000.00	5,000.00	.0
03-25-8012-00 PROFESSIONAL SERVICES	444.05	4,003.65	7,000.00	2,996.35	57.2
03-25-8014-00 LEGAL	.00	.00	16,000.00	16,000.00	.0
03-25-8016-00 SALARY STUDY	.00	.00	800.00	800.00	.0
03-25-8017-00 PROFESSIONAL SERVICES - ENG.	.00	.00	30,000.00	30,000.00	.0
TOTAL PERSONNEL	18,671.63	48,818.44	295,400.00	246,581.56	16.5

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

SEWER FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>OPERATIONS - SEWER FUND</u>					
03-70-5010-00 SALARIES	24,587.38	57,838.14	280,000.00	222,161.86	20.7
03-70-5010-03 OVERTIME PAY	488.67	1,254.60	10,000.00	8,745.40	12.6
03-70-5050-00 PAYROLL TAXES	1,867.50	4,368.72	22,200.00	17,831.28	19.7
03-70-5060-00 RETIREMENT FUND	1,201.71	2,787.12	16,500.00	13,712.88	16.9
03-70-5065-00 HEALTH INSURANCE	4,923.45	14,868.79	81,000.00	66,131.21	18.4
03-70-5070-00 WORKMEN'S COMPENSATION	417.72	1,252.98	8,900.00	7,647.02	14.1
03-70-6010-00 UTILITIES	23,313.75	46,307.95	220,000.00	173,692.05	21.1
03-70-6510-00 TELEPHONE	606.09	1,212.01	6,500.00	5,287.99	18.7
03-70-6511-00 TRAINING	.00	85.00	3,300.00	3,215.00	2.6
03-70-6518-00 CLEANING SUPPLIES	87.77	263.31	1,500.00	1,236.69	17.6
03-70-6522-00 INSURANCE	.00	8,850.64	29,300.00	20,449.36	30.2
03-70-6524-00 GAS AND OIL	599.29	1,511.43	9,100.00	7,588.57	16.6
03-70-6525-00 GIS MAPPING	.00	.00	25,000.00	25,000.00	.0
03-70-6526-00 CHEMICALS	12,150.36	22,969.98	120,000.00	97,030.02	19.1
03-70-6527-00 SUPPLIES-SAFETY EQPT.	.00	.00	3,500.00	3,500.00	.0
03-70-6528-00 OPERATING SUPPLIES	259.05	611.81	10,000.00	9,388.19	6.1
03-70-6544-02 TOOLS	.00	.00	3,500.00	3,500.00	.0
03-70-6544-03 VEHICLE	.00	.00	19,000.00	19,000.00	.0
03-70-6544-04 MANHOLE INSTALLATION	.00	.00	50,000.00	50,000.00	.0
03-70-6544-10 SEWERLINE REPLACEMENT	.00	.00	20,000.00	20,000.00	.0
03-70-6544-16 INSTRUMENTATION UPGRADES	.00	.00	140,000.00	140,000.00	.0
03-70-6544-20 LOW POINT - IMPROVEMENTS	.00	.00	400,000.00	400,000.00	.0
03-70-7015-00 REPAIRS & MAINT - MAINS	391.26	391.26	20,000.00	19,608.74	2.0
03-70-7020-00 REPAIRS & MAINTENANCE	6,043.62	14,839.24	120,000.00	105,160.76	12.4
03-70-7022-00 VEHICLE REPAIRS	39.43	39.43	3,000.00	2,960.57	1.3
03-70-7023-00 WEED CONTROL/GROUND MAINT.	.00	.00	3,000.00	3,000.00	.0
03-70-7025-00 SEWERLINE CLEANING	.00	.00	45,000.00	45,000.00	.0
03-70-7090-00 INSURANCE DEDUCTIBLES	.00	.00	7,500.00	7,500.00	.0
03-70-8012-00 PROFESSIONAL SERVICES	9,212.15	9,763.53	50,000.00	40,236.47	19.5
TOTAL OPERATIONS - SEWER FUND	86,189.20	189,215.94	1,727,800.00	1,538,584.06	11.0
TOTAL FUND EXPENDITURES	104,860.83	238,034.38	2,023,200.00	1,785,165.62	11.8
NET REVENUE OVER EXPENDITURES	91,826.45	299,801.93	(138,200.00)	(438,001.93)	216.9

TOWN OF JOHNSTOWN
REVENUES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

CONSERVATION TRUST

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
05-00-4070-00 COLORADO LOTTERY	17,261.24	17,261.24	70,000.00	52,738.76	24.7
05-00-4110-00 PARK FEES	10,000.00	13,500.00	62,500.00	49,000.00	21.6
05-00-4130-00 LARIMER COUNTY USE TAX	7,098.35	27,633.87	90,000.00	62,366.13	30.7
05-00-4330-00 OTHER	.00	19.90	5,000.00	4,980.10	.4
05-00-4610-00 CT-EARNINGS ON INVEST.	401.75	835.87	9,000.00	8,164.13	9.3
TOTAL SOURCE 00	34,761.34	59,250.88	236,500.00	177,249.12	25.1
TOTAL FUND REVENUE	34,761.34	59,250.88	236,500.00	177,249.12	25.1

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

CONSERVATION TRUST

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
05-70-6533-00 TREE TRIMMING	.00	.00	6,000.00	6,000.00	.0
05-70-6544-01 CAPITAL - TREES	.00	.00	7,000.00	7,000.00	.0
05-70-6545-00 EDDIE ARAGON PARK	.00	168.73	5,000.00	4,831.27	3.4
05-70-6546-00 SUNRISE PARK	.00	.00	4,000.00	4,000.00	.0
05-70-6547-00 PARISH PARK	.00	.00	4,000.00	4,000.00	.0
05-70-6548-00 HAYS PARK	.00	.00	6,000.00	6,000.00	.0
05-70-6549-00 PIONEER RIDGE PARK	.00	.00	4,000.00	4,000.00	.0
05-70-6550-00 ROLLING HILLS RANCH PARK	.00	.00	4,000.00	4,000.00	.0
05-70-6551-00 JOHNSTOWN LAKE PARK	.00	.00	8,000.00	8,000.00	.0
05-70-6553-00 CLEARVIEW PARK	.00	.00	165,000.00	165,000.00	.0
05-70-7020-00 REPAIR & MAINT.	112.50	177.50	6,000.00	5,822.50	3.0
TOTAL DEPARTMENT 70	112.50	346.23	219,000.00	218,653.77	.2
TOTAL FUND EXPENDITURES	112.50	346.23	219,000.00	218,653.77	.2
NET REVENUE OVER EXPENDITURES	34,648.84	58,904.65	17,500.00	(41,404.65)	336.6

TOWN OF JOHNSTOWN
REVENUES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

CONTINGENT FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
06-00-4110-00 TRANSFER FROM GENERAL FUND	.00	.00	225,000.00	225,000.00	.0
06-00-4610-00 CF-EARNINGS ON INVESTMENTS	2,041.86	5,256.17	7,200.00	1,943.83	73.0
TOTAL SOURCE 00	2,041.86	5,256.17	232,200.00	226,943.83	2.3
TOTAL FUND REVENUE	2,041.86	5,256.17	232,200.00	226,943.83	2.3

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

CONTINGENT FUND

	<u>PERIOD ACTUAL</u>	<u>YTD ACTUAL</u>	<u>BUDGET</u>	<u>UNEXPENDED</u>	<u>PCNT</u>
06-70-6544-00 TRANSFER TO BANK FUND	7,390.40	7,390.40	1,855,500.00	1,848,109.60	.4
TOTAL DEPARTMENT 70	7,390.40	7,390.40	1,855,500.00	1,848,109.60	.4
TOTAL FUND EXPENDITURES	7,390.40	7,390.40	1,855,500.00	1,848,109.60	.4
NET REVENUE OVER EXPENDITURES	(5,348.54)	(2,134.23)	(1,623,300.00)	(1,621,165.77)	(.1)

TOWN OF JOHNSTOWN
REVENUES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

CEMETERY FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
07-00-4310-00 CEMETERY LOTS AND CARE	598.50	994.50	3,000.00	2,005.50	33.2
07-00-4610-00 CP-EARNINGS ON INVESTMENTS	159.52	419.87	900.00	480.13	46.7
TOTAL SOURCE 00	758.02	1,414.37	3,900.00	2,485.63	36.3
TOTAL FUND REVENUE	758.02	1,414.37	3,900.00	2,485.63	36.3
NET REVENUE OVER EXPENDITURES	758.02	1,414.37	3,900.00	2,485.63	36.3

TOWN OF JOHNSTOWN
REVENUES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

EQUIPMENT REPLACEMENT FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
09-00-4110-00 TRANSFER FROM GENERAL FUND	.00	.00	1,000,000.00	1,000,000.00	.0
09-00-4610-00 EARNINGS ON INVESTMENTS	2,108.37	5,232.59	5,000.00	(232.59)	104.7
TOTAL SOURCE 00	2,108.37	5,232.59	1,005,000.00	999,767.41	.5
TOTAL FUND REVENUE	2,108.37	5,232.59	1,005,000.00	999,767.41	.5

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

EQUIPMENT REPLACEMENT FUND

	<u>PERIOD ACTUAL</u>	<u>YTD ACTUAL</u>	<u>BUDGET</u>	<u>UNEXPENDED</u>	<u>PCNT</u>
09-70-6544-03 GRADER ROLL OVER	.00	.00	18,900.00	18,900.00	.0
09-70-6544-04 POLICE VEHICLE	.00	.00	99,500.00	99,500.00	.0
09-70-6544-07 PUBLIC WORKS EQUIPMENT	.00	.00	133,000.00	133,000.00	.0
09-70-6544-10 COMPUTERS	.00	.00	5,200.00	5,200.00	.0
09-70-6544-12 LOADER	.00	.00	19,500.00	19,500.00	.0
	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
TOTAL DEPARTMENT 70	.00	.00	276,100.00	276,100.00	.0
	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
TOTAL FUND EXPENDITURES	.00	.00	276,100.00	276,100.00	.0
	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
NET REVENUE OVER EXPENDITURES	<u>2,108.37</u>	<u>5,232.59</u>	<u>728,900.00</u>	<u>723,667.41</u>	<u>.7</u>

TOWN OF JOHNSTOWN
REVENUES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

DRAINAGE FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
11-00-4110-00 DRAINAGE FEES	35,360.00	162,519.06	416,000.00	253,480.94	39.1
11-00-4610-00 EARNINGS ON INVESTMENTS	2,143.23	5,737.30	22,500.00	16,762.70	25.5
TOTAL SOURCE 00	37,503.23	168,256.36	438,500.00	270,243.64	38.4
TOTAL FUND REVENUE	37,503.23	168,256.36	438,500.00	270,243.64	38.4

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

DRAINAGE FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>ADMINISTRATION</u>					
11-25-5010-00 CLERICAL SALARIES	2,124.59	4,932.37	38,900.00	33,967.63	12.7
11-25-5010-03 OVERTIME	.00	.00	100.00	100.00	.0
11-25-5011-00 PART TIME OFFICE	518.70	1,182.63	12,600.00	11,417.37	9.4
11-25-5025-00 MANAGER	3,403.11	7,896.96	29,500.00	21,603.04	26.8
11-25-5050-00 PAYROLL TAXES	454.86	1,049.06	6,300.00	5,250.94	16.7
11-25-5060-00 RETIREMENT FUND	404.22	938.11	5,700.00	4,761.89	16.5
11-25-5065-00 HEALTH INSURANCE	775.94	2,278.06	10,200.00	7,921.94	22.3
11-25-5070-00 WORKMAN'S COMPENSATION	69.62	208.83	700.00	491.17	29.8
11-25-6010-00 UTILITIES	73.53	152.48	1,600.00	1,447.52	9.5
11-25-6505-00 OFFICE SUPPLIES	.00	63.78	800.00	736.22	8.0
11-25-6506-00 UTILITY BILL MAILING	693.46	1,386.76	7,900.00	6,513.24	17.6
11-25-6507-00 ON LINE BILL PRESENTMENT	.00	.00	2,300.00	2,300.00	.0
11-25-6510-00 TELEPHONE	.00	.00	800.00	800.00	.0
11-25-6522-00 INSURANCE AND BONDS	.00	650.00	2,800.00	2,150.00	23.2
11-25-6544-04 COMPUTER SOFTWARE	.00	.00	3,500.00	3,500.00	.0
11-25-7020-00 MAINTENANCE AND REPAIRS	.00	156.27	500.00	343.73	31.3
11-25-8010-00 AUDIT	.00	.00	2,500.00	2,500.00	.0
11-25-8012-00 COMPUTER PROF. SERVICES	347.25	1,161.75	3,700.00	2,538.25	31.4
11-25-8014-00 LEGAL	.00	.00	2,200.00	2,200.00	.0
11-25-8017-00 PROFESSIONAL SERVICES	.00	.00	1,500.00	1,500.00	.0
TOTAL ADMINISTRATION	8,865.28	22,057.06	134,100.00	112,042.94	16.5
<u>OPERATIONS</u>					
11-70-5010-00 SALARIES	2,189.56	5,062.64	63,200.00	58,137.36	8.0
11-70-5010-03 OVERTIME	.00	.00	600.00	600.00	.0
11-70-5050-00 PAYROLL TAXES	158.44	360.42	4,900.00	4,539.58	7.4
11-70-5060-00 RETIREMENT FUND	92.73	214.41	4,200.00	3,985.59	5.1
11-70-5065-00 HEALTH INSURANCE	822.46	2,415.05	24,000.00	21,584.95	10.1
11-70-5070-00 WORKMEN'S COMPENSATION	208.86	626.49	1,900.00	1,273.51	33.0
11-70-6510-00 TELEPHONE	17.30	34.60	900.00	865.40	3.8
11-70-6511-00 TRAINING	.00	.00	600.00	600.00	.0
11-70-6522-00 INSURANCE	.00	1,200.00	5,000.00	3,800.00	24.0
11-70-6524-00 GAS & OIL	195.87	394.49	2,000.00	1,605.51	19.7
11-70-6526-00 OPERATING SUPPLIES	29.77	89.31	1,000.00	910.69	8.9
11-70-6544-06 INFRASTRUCTURE REPAIR	.00	.00	20,000.00	20,000.00	.0
11-70-7020-00 REPAIR & MAINTENANCE	.00	.00	1,000.00	1,000.00	.0
11-70-7022-00 VEHICLE REPAIRS	.00	.00	800.00	800.00	.0
11-70-7024-00 INLET REPLACEMENT	.00	.00	20,000.00	20,000.00	.0
11-70-7026-00 CURB/GUTTER REPLACEMENT	.00	.00	70,000.00	70,000.00	.0
TOTAL OPERATIONS	3,714.99	10,397.41	220,100.00	209,702.59	4.7
TOTAL FUND EXPENDITURES	12,580.27	32,454.47	354,200.00	321,745.53	9.2
NET REVENUE OVER EXPENDITURES	24,922.96	135,801.89	84,300.00	(51,501.89)	161.1

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

LIBRARY

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
14-00-5010-00 LIBRARY- SALARIES	35,370.33	79,390.08	398,000.00	318,609.92	20.0
14-00-5050-00 LIBRARY-PAYROLL TAXES	2,679.56	5,987.82	48,000.00	42,012.18	12.5
14-00-5065-00 HEALTH INS.	393.80	1,154.90	10,000.00	8,845.10	11.6
14-00-5070-00 WORKMENS COMPENSATION	69.62	208.83	4,000.00	3,791.17	5.2
14-00-6522-00 INSURANCE AND BONDS	.00	950.00	.00	(950.00)	.0
TOTAL DEPARTMENT 00	38,513.31	87,691.63	460,000.00	372,308.37	19.1
TOTAL FUND EXPENDITURES	38,513.31	87,691.63	460,000.00	372,308.37	19.1
NET REVENUE OVER EXPENDITURES	(38,513.31)	(87,691.63)	(460,000.00)	(372,308.37)	(19.1)

TOWN OF JOHNSTOWN
REVENUES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

CAPITAL PROJECTS FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
15-00-4060-00 USE TAX	200,004.58	981,993.92	1,000,000.00	18,006.08	98.2
15-00-4610-00 EARNINGS ON INVESTMENTS	11,128.16	29,729.22	65,000.00	35,270.78	45.7
TOTAL SOURCE 00	211,132.74	1,011,723.14	1,065,000.00	53,276.86	95.0
 <u>SOURCE 01</u>					
15-01-4530-00 DEVELOPER REIMBURSEMENT	.00	.00	60,000.00	60,000.00	.0
TOTAL SOURCE 01	.00	.00	60,000.00	60,000.00	.0
 TOTAL FUND REVENUE	 211,132.74	 1,011,723.14	 1,125,000.00	 113,276.86	 89.9

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

CAPITAL PROJECTS FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
15-70-7020-00 STREET REPAIR & MAINT.	.00	547.66	350,000.00	349,452.34	.2
15-70-7022-00 ALLEY IMPROVEMENTS	.00	.00	2,000.00	2,000.00	.0
15-70-7035-00 COMMUNITY CENTER IMPROVEMENTS	.00	.00	5,000.00	5,000.00	.0
15-70-7045-00 STREETLIGHTS	.00	.00	5,000.00	5,000.00	.0
15-70-7047-00 SIGNS	.00	705.00	5,000.00	4,295.00	14.1
15-70-7055-00 ENGINEERING/ARCHITECTURAL	.00	.00	1,200,000.00	1,200,000.00	.0
15-70-7062-00 COMMUNITY RECREATION CENTER	.00	995,297.82	6,000,000.00	5,004,702.18	16.6
15-70-7065-00 SIDEWALK/CURB REPL.	.00	.00	15,000.00	15,000.00	.0
15-70-7085-00 SHOP IMPROVEMENTS	.00	.00	5,500.00	5,500.00	.0
TOTAL DEPARTMENT 70	.00	996,550.48	7,587,500.00	6,590,949.52	13.1
<hr/>					
15-80-7060-00 REBATE	.00	.00	180,000.00	180,000.00	.0
15-80-7090-00 I-25 GRANT CONTRIBUTION	.00	.00	250,000.00	250,000.00	.0
TOTAL DEPARTMENT 80	.00	.00	430,000.00	430,000.00	.0
<hr/>					
TOTAL FUND EXPENDITURES	.00	996,550.48	8,017,500.00	7,020,949.52	12.4
<hr/>					
NET REVENUE OVER EXPENDITURES	211,132.74	15,172.66	(6,892,500.00)	(6,907,672.66)	.2

TOWN OF JOHNSTOWN
REVENUES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

JOHNSON'S CORNER IMP. FUND

	<u>PERIOD ACTUAL</u>	<u>YTD ACTUAL</u>	<u>BUDGET</u>	<u>UNEARNED</u>	<u>PCNT</u>
16-00-4070-00 FROM SALES TAX	7,705.94	25,029.28	112,500.00	87,470.72	22.3
16-00-4610-00 EARNINGS ON INVESTMENTS	3.07	3.07	100.00	96.93	3.1
 TOTAL SOURCE 00	 <u>7,709.01</u>	 <u>25,032.35</u>	 <u>112,600.00</u>	 <u>87,567.65</u>	 <u>22.2</u>
 TOTAL FUND REVENUE	 <u>7,709.01</u>	 <u>25,032.35</u>	 <u>112,600.00</u>	 <u>87,567.65</u>	 <u>22.2</u>

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

JOHNSON'S CORNER IMP. FUND

	<u>PERIOD ACTUAL</u>	<u>YTD ACTUAL</u>	<u>BUDGET</u>	<u>UNEXPENDED</u>	<u>PCNT</u>
16-70-7010-00 CONSTRUCTION	.00	.00	114,900.00	114,900.00	.0
TOTAL DEPARTMENT 70	.00	.00	114,900.00	114,900.00	.0
TOTAL FUND EXPENDITURES	.00	.00	114,900.00	114,900.00	.0
NET REVENUE OVER EXPENDITURES	<u>7,709.01</u>	<u>25,032.35</u>	<u>(2,300.00)</u>	<u>(27,332.35)</u>	<u>1088.4</u>

TOWN OF JOHNSTOWN
REVENUES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

IMPACT FEES

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
17-00-4610-00 EARNINGS ON INVESTMENTS	7,826.07	23,528.27	50,000.00	26,471.73	47.1
TOTAL SOURCE 00	7,826.07	23,528.27	50,000.00	26,471.73	47.1
 SOURCE 01					
17-01-4110-01 TRANSPORATION FAC. DEV. FEE	49,064.00	580,959.80	405,000.00	(175,959.80)	143.5
17-01-4110-02 POLICE FACILITIES DEV. FEE	12,756.00	148,992.20	132,000.00	(16,992.20)	112.9
17-01-4110-03 PUBLIC FACILITIES DEV. FEE	28,684.00	334,793.10	28,000.00	(306,793.10)	1195.7
17-01-4110-04 PARKS & OPEN SPACE DEV. FEE	22,780.00	266,253.00	150,000.00	(116,253.00)	177.5
17-01-4110-05 LIBRARY FACILITIES FEE	17,780.00	185,032.00	100,000.00	(85,032.00)	185.0
17-01-4110-06 TRAFFIC SIGNAL	1,392.45	3,063.76	5,000.00	1,936.24	61.3
TOTAL SOURCE 01	132,456.45	1,519,093.86	820,000.00	(699,093.86)	185.3
TOTAL FUND REVENUE	140,282.52	1,542,622.13	870,000.00	(672,622.13)	177.3

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

IMPACT FEES

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
17-70-6544-01 POLICE VEHICLE	.00	.00	93,000.00	93,000.00	.0
17-70-6544-15 POLICE EQUIPMENT	.00	.00	332,500.00	332,500.00	.0
17-70-6544-19 ANNUAL LEASE/UTILITIES	1,784.65	5,084.35	26,500.00	21,415.65	19.2
17-70-6544-20 PEDESTRIAN CROSSING SIGNALS	24,975.00	24,975.00	75,000.00	50,025.00	33.3
17-70-8017-00 PARKS & OPEN - PROFESSIONAL	.00	.00	15,000.00	15,000.00	.0
17-70-8018-00 TRANSPORTATION EXPENDITURES	.00	.00	30,000.00	30,000.00	.0
TOTAL DEPARTMENT 70	26,759.65	30,059.35	572,000.00	541,940.65	5.3
TOTAL FUND EXPENDITURES	26,759.65	30,059.35	572,000.00	541,940.65	5.3
NET REVENUE OVER EXPENDITURES	113,522.87	1,512,562.78	298,000.00	(1,214,562.78)	507.6

TOWN OF JOHNSTOWN
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 3 MONTHS ENDING MARCH 31, 2018

STREET MAINTENANCE FUND

	<u>PERIOD ACTUAL</u>	<u>YTD ACTUAL</u>	<u>BUDGET</u>	<u>UNEXPENDED</u>	<u>PCNT</u>
20-70-7020-00 STREET MAINTENANCE	<u>.00</u>	<u>3,510.00</u>	<u>300,000.00</u>	<u>296,490.00</u>	<u>1.2</u>
TOTAL DEPARTMENT 70	<u>.00</u>	<u>3,510.00</u>	<u>300,000.00</u>	<u>296,490.00</u>	<u>1.2</u>
TOTAL FUND EXPENDITURES	<u>.00</u>	<u>3,510.00</u>	<u>300,000.00</u>	<u>296,490.00</u>	<u>1.2</u>
NET REVENUE OVER EXPENDITURES	<u>27,561.56</u>	<u>78,949.72</u>	<u>5,500.00</u>	<u>(73,449.72)</u>	<u>1435.5</u>

**METROPOLITAN
DISTRICT
POLICY**

TITLE 32 METROPOLITAN DISTRICT SUBMITTAL REQUIREMENTS

Metropolitan District Development Condition: An applicant seeking approval of a Title 32 Metropolitan District should not submit a proposed service plan until the applicant has obtained Town Council approval of a preliminary development plat and plan that includes the initial and inclusion boundaries of the proposed district(s) and, if appropriate for the particular development, approval of design guidelines.

Service Plan Submittal Materials:

Upon satisfaction of the condition(s) set forth above, an applicant proposing a Title 32 Metropolitan District must submit the following materials to the Town of Johnstown ("Town"):

1. **Cover Letter:** A cover letter addressing pertinent factors related to the proposed metropolitan district(s), including, but not limited to, the nature of the development, the quality of the project including residential or commercial structures, the anticipated amenities, the district boundaries, the proposed mill levies and the requested debt authority along with an explanation of the need for the organization of a metropolitan district;
2. **Service plan:** A service plan in substantial conformity with the Town's model service plan. The service plan submittal should include: (1) an electronic copy of the service plan in PDF format with attached exhibits; (2) an electronic copy of the service plan and the proposed intergovernmental agreement in Word format; (3) a blackline document comparing the Town's model service plan with the proposed service plan; and (4) two paper copies of the proposed service plan with exhibits;
3. **Identification of Proponents and Representatives:** Identification of the names, addresses and telephone numbers of the applicant(s), who must own property within the proposed district boundaries, and of the applicant's professional representatives;
4. **Reimbursement Fee:** A fee in the amount of \$4,500.00 to cover costs incurred in developing the model service plan. Once the costs are recovered, this fee will no longer be imposed. Staff is available to discuss the basis of the fee and costs recovered through the date of an application;
5. **Service Plan Application Review Deposit:** A service plan application review deposit in the amount of \$10,000.00. The deposit is distinct from the subdivision application review deposit. The service plan application review deposit will be used to cover the Town's costs in processing the application and may include, but not be limited to, in the Town's sole discretion, professional fees for legal services, financial consultants and engineering review. If the deposit is diminished below \$2,000.00, the applicant shall be required to replenish the deposit to the amount of \$10,000.00. The portion of the deposit, if any, that is not used, shall be returned to the applicant; and

6. Cost Agreement: An executed Cost and Funds Deposit Agreement in a form provided by the Town.

Deadline for Submittal:

For November election (every year)

May 1

For May election (even numbered years only)

November 1

NOTES

DATE: 04/16/18

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

AGENDA ITEMS 8A

AGREEMENT

**(Johnstown Community Recreation Center
Project)**

(Preconstruction Services)

(Adolfson & Peterson Construction)

TOWN COUNCIL AGENDA COMMUNICATION

AGENDA DATE: April 16, 2018

ITEM NUMBER: 8A

SUBJECT: Consider Agreement for Preconstruction Services for the Johnstown Community Recreation Center Project – Adolfson & Peterson Construction

ACTION PROPOSED: Consider Approval of Agreement for Preconstruction Services

PRESENTED BY: Mr. Beau LaCouture (Owner's Representative), Town Manager and Town Attorney

AGENDA ITEM DESCRIPTION: A Request for Qualifications (RFQ's) for Construction Manager/General Contractor (CM/GC) services was advertised in the Johnstown Breeze, and also forwarded to ten (10) construction firms. A total of eight (8) firms responded to the Town's solicitation. Those firms responding to the Town's RFQ were invited to submit proposals for the project. Seven (7) firms submitted proposals.

On February 26, 2018 the Recreation Steering Committee (Committee) met to review the submitted proposals. Following their review, it was the consensus of the Committee to invite the following four (4) firms for an interview: 1) Adolfson & Peterson Construction (Aurora, CO), 2) Saunders Construction, Inc. (Englewood, CO 3) Fransen Pittman General Contractors (Englewood, CO), and 4) JHL Constructors, Inc., (Centennial, CO).

On March 6, 2018 the Committee interviewed the above-listed firms. Following the interviews, it was the consensus of the Committee to recommend the firm of Adolfson & Peterson for preconstruction services for the Community Recreation Project in an amount not to exceed \$56,250. In the next few months the Committee will have reviewed the Contractor's Guaranteed Maximum Price proposal, and will return to Town Council for approval of Amendment #1 to this contract, which will establish the maximum construction cost based upon 100% Design Development drawings. Should the Town and the Contractor not reach agreement on an acceptable price, the Town will be under no further obligation to the Contractor other than for the \$56,250 preconstruction services fee.

The Recreation Center Interview Committee making the recommendation was comprised of the following individuals: (Mayor Pro-tem Lebsack, Councilman Davis, Town Manager, Town Planner, Town Clerk, Neil Hays (Hays Market), Jeff Clay (Boulder Valley YMCA), Kevin Gibbs (former Owner's representative) and Beau LaCouture (Owner's Representative).

LEGAL ADVICE: The Town Attorney has reviewed the preconstruction services agreement (refer to attachment).

FINANCIAL ADVICE: According to the Town Treasurer, sufficient funds are available for the services.

RECOMMENDED ACTION: Approve preconstruction services agreement.

SUGGESTED MOTIONS:

For Approval: I move we approve the preconstruction services agreement with Adolfson & Peterson Construction in a total amount not to exceed \$56,250, and authorize the Mayor to sign the agreement.

For Denial: I move we deny approval of the preconstruction services agreement.

Reviewed:


Town Manager

AGREEMENT

AIA[®] Document A133[™] – 2009

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 4th day of April in the year 2018
(In words, indicate day, month and year.)

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

The Town of Johnstown
450 S. Parish Avenue
Johnstown, CO 80534

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

AP Mountain States, LLC dba Adolfson & Peterson Construction
797 Ventura St.
Aurora, CO 80011

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

Johnstown Community Recreation Center
Weld CR 17 and CR 46 1/2 - NE Intersection
Johnstown, CO 80534

The Architect:
(Name, legal status and address)

Perkins + Will
475 Lincoln St.
Denver, CO 80203

The Owner's Designated Representative:
(Name, address and other information)

Beau LaCouture
LaCouture, Inc.
18020 Bolero Drive
Parker, CO 80134

The Construction Manager's Designated Representative:
(Name, address and other information)

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[™]–2007, 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.

The Architect's Designated Representative:

Init.

AIA Document A133[™] – 2009 (formerly A121[™]CMC – 2003). Copyright © 1991, 2003 and 2009 by The American Institute of Architects. All rights reserved.
WARNING: This AIA[®] Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA[®] Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.
This document was produced by AIA software at 17:09:16 on 04/05/2018 under Order No. 6887867071 which expires on 12/13/2018, and is not for resale.
User Notes:

(3B9ADA38)

(Name, address and other information)

Chris Kastelic
Perkins + Will
475 Lincoln St.
Denver, CO 80203

The Owner and Construction Manager agree as follows.

TABLE OF ARTICLES

- 1 GENERAL PROVISIONS
 - 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES
 - 3 OWNER'S RESPONSIBILITIES
 - 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
 - 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES
 - 6 COST OF THE WORK FOR CONSTRUCTION PHASE
 - 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES
 - 8 INSURANCE AND BONDS
 - 9 DISPUTE RESOLUTION
 - 10 TERMINATION OR SUSPENSION
 - 11 MISCELLANEOUS PROVISIONS
 - 12 SCOPE OF THE AGREEMENT
- EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 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 the 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 2.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 2.2.8. 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.

§ 1.2 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. 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.

§ 1.3 General Conditions

For the Preconstruction Phase, AIA Document A201™–2007, General Conditions of the Contract for Construction, shall apply only as specifically provided in this Agreement. For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2007, which document is incorporated herein by reference. The term "Contractor" as used in A201–2007 shall mean the Construction Manager.

ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2. The Construction Manager's Construction Phase responsibilities are set forth in Section 2.3. 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, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 2.1 Preconstruction Phase

§ 2.1.1 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 2.1.2 Consultation

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. The Construction Manager shall advise the Owner and the Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations consistent with the Project requirements to the Owner and Architect on constructability; availability of materials and labor; time requirements for procurement, installation and construction; 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.

§ 2.1.3 When Project requirements in Section 3.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule 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 could 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 well in advance of construction; and the occupancy requirements of the Owner.

§ 2.1.4 Phased Construction

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

§ 2.1.5 Preliminary Cost Estimates

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

§ 2.1.5.2 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, estimates of the Cost of the Work of increasing detail and refinement and allowing for the further development of the design until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

§ 2.1.6 Subcontractors and Suppliers

The Construction Manager shall develop bidders' interest in the Project. As working drawings and specifications are completed, Construction Manager will establish bidding schedules and conduct pre-bid conferences to familiarize bidders with bidding documents, management techniques and any special systems, materials or methods. Construction Manager will prepare scope packages for each trade which clearly identify the bid scope, including general conditions items such as cleanup and safety. Construction Manager will review scope packages with the Owner and Architect prior to issuing same to subcontractors. Construction Manager will analyze all bids and prepare: 1) a bid matrix and scoring method (approved in advance by the Owner), 2) written bid analysis, 3) review bids and bid analysis with the Owner and Architect, 4) make recommendations for contract awards, and 5) with consent of Owner, award subcontracts. The Owner shall not be bound to accept the lowest priced bid if that bid, in the discretion of the Owner, is not deemed to be in the best interest of the Owner.

§ 2.1.7 The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. 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. 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.

§ 2.1.8 Extent of Responsibility

The Construction Manager shall exercise reasonable care in preparing schedules and estimates. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. 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.

§ 2.1.9 Notices and Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi governmental authorities for inclusion in the Contract Documents.

§ 2.2 Guaranteed Maximum Price Proposal and Contract Time

§ 2.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager and in consultation with the Architect, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's review and acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, including contingencies described in Section 2.2.4, and the Construction Manager's Fee.

§ 2.2.2 To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Construction Manager shall provide in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 2.2.3 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 2.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
- .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, allowances, contingency, 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.
- .6 The Guaranteed Maximum Price proposal and agreed upon Substantial Completion date will include a liquidated damages provision of one thousand dollars (\$1,00.00) per calendar day for late completion beyond Substantial Completion date plus any approved time extensions.

§ 2.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include its contingency for the Construction Manager's use, subject to Owner's written approval, to cover those costs considered reimbursable as the Cost of the Work but not included in a Change Order.

§ 2.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner and 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.

§ 2.2.6 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.

§ 2.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the commencement of the Construction Phase, unless the Owner provides prior written authorization for such costs.

§ 2.2.8 The Owner shall authorize the Architect to provide the revisions to the Drawings and Specifications to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Guaranteed Maximum Price Amendment and the revised Drawings and Specifications.

§ 2.2.9 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, at the time the Guaranteed Maximum Price Amendment is executed.

Notwithstanding the foregoing, the parties acknowledge and agree that the Owner is a tax-exempt public entity, and all materials incorporated into the work and all equipment and supplies expended and/or used to exhaustion in the course of the work on the Project may be purchased without payment of sales tax. Accordingly, no sales tax or other taxes on materials incorporated into the work, or upon equipment or supplies expended and/or used to exhaustion in the course of the work, shall be included in the calculation of the Guaranteed Maximum Price

§ 2.3 Construction Phase

§ 2.3.1 General

§ 2.3.1.1 For purposes of Section 8.1.2 of A201-2007, the date of commencement of the Work shall mean the date the Construction

Manager receives a construction building permit from the applicable jurisdictional authority and a written Notice to Proceed with the Work as stated in Article 2.3.1.2.

§ 2.3.1.2 The Construction Phase shall commence upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price ("GMP") proposal or the Owner's issuance of a Notice to Proceed, whichever occurs earlier.

§ 2.3.2 Administration

§ 2.3.2.1 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 by 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 and shall deliver such bids to the Architect. The Owner shall then determine, with the advice of the Construction Manager and the Architect, which bids will be accepted. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 2.3.2.2 If the Guaranteed Maximum Price has been established and when a specific bidder (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 Contract Time and 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 and time requirement of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 2.3.2.3 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 prior consent of the Owner. If the Subcontract is awarded on a cost plus fee basis, 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 Section 6.11 below.

§ 2.3.2.4 If the Construction Manager recommends a specific bidder that may be considered a "related party" according to Section 6.10, then the Construction Manager shall promptly notify the Owner in writing of such relationship and notify the Owner of the specific nature of the contemplated transaction, according to Section 6.10.2.

§ 2.3.2.5 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 to the Owner and Architect.

§ 2.3.2.6 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 submittal schedule in accordance with Section 3.10 of A201-2007.

§ 2.3.2.7 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 required by the Owner. The Construction Manager shall also 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, accidents, injuries, and other information required by the Owner.

§ 2.3.2.8 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 2.3.2.7 above.

§ 2.4 Professional Services

Section 3.12.10 of A201-2007 shall apply to both the Preconstruction and Construction Phases.

§ 2.5 Hazardous Materials

Section 10.3 of A201-2007 shall apply to both the Preconstruction and Construction Phases.

ARTICLE 3 OWNER'S RESPONSIBILITIES

§ 3.1 Information and Services Required of the Owner

§ 3.1.1 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.

§ 3.1.2 Pursuant to C.R.S. § 24-91-103.6, as may be amended from time to time, the Owner has appropriated the money necessary to fund this Project. No change order or other form of directive shall be issued by the Owner requiring additional compensable work to be performed, which causes the aggregate amount payable under this Agreement to exceed the amount appropriated for the original contract amount, unless the Owner provides written assurance to the Construction Manager that lawful appropriations have been made to cover the cost of the additional work or unless such work is covered under the remedy-granting provisions of this Agreement.

§ 3.1.3 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 Section 6.1.1, (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.

§ 3.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, 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. The Construction Manager shall exercise reasonable diligence and critical judgment in the review of such information, reports, surveys, drawings and tests prior to proceeding with any work or activity based upon the same.

§ 3.1.4.1 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.

§ 3.1.4.2 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 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 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.

§ 3.1.4.3 The Owner, when such services are reasonable and necessary and requested by the Construction Manager, shall furnish services of geotechnical engineers, which may include but are not limited to 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.

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

§ 3.2 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 A201-2007, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 3.2.1 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.

§ 3.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B103™-2007, Standard Form of Agreement Between Owner and Architect, including any additional services requested by the Construction Manager that are necessary, as determined by the Owner's in Owner's sole discretion, for the Preconstruction and Construction Phase services under this Agreement. Upon request of the Construction Manager, the Owner, in its discretion, shall provide the Construction Manager a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement.

ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 4.1 Compensation

§ 4.1.1 For the Construction Manager's Preconstruction Phase services, the Owner shall compensate the Construction Manager as follows:

§ 4.1.2 For the Construction Manager's Preconstruction Phase services described in Sections 2.1 and 2.2:

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

The Construction Manager's Fee will be a lump sum of (\$56,250.00) and will be charged on a monthly basis as a percentage of the Cost of the Work in each pay application. The lump sum is based upon an assumption of an eight (8) month time period, and may, with Owner's written consent, be equitably adjusted if the duration is in excess of said assumption.

§ 4.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within eight (8) 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.

§ 4.1.4 Compensation based on Direct Personnel Expense includes the direct salaries of the Construction Manager's personnel providing Preconstruction Phase services on the Project and the Construction Manager's costs for the mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory, employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

§ 4.2 Payments

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

§ 4.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid forty-five (45) 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.)

1.5 %

ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 5.1 For the Construction Manager's performance of the Work as described in Section 2.3, the Owner shall pay the Construction Manager the Contract Sum in current funds. The Contract Sum is the Cost of the Work as defined in Section 6.1.1 plus the Construction Manager's Fee.

§ 5.1.1 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.)

The Construction Manager's Fee shall be two and five tenths percent (2.5%) of the Cost of Work, invoiced on a monthly basis as otherwise provided in the Agreement in each pay application once the GMP is approved.

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

The Construction Manager's Fee for changes in Work shall be two and five tenths percent (2.5%) of the Cost of the additional Work, except that the Construction Manager shall not charge a Construction Manager's Fee for the first \$250,000.00 of additional costs above and beyond the GMP

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

fifteen (15%) percent

§ 5.1.4 Rental rates for Construction Manager-owned equipment shall not exceed N/A percent (%) of the standard rate paid at the place of the Project.

§ 5.1.5 Unit prices, if any:

(Identify and state the unit price; state the quantity limitations, if any, to which the unit price will be applicable.)

Item

Units and Limitations

Price per Unit (\$0.00)

§ 5.2 Guaranteed Maximum Price

§ 5.2.1 The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, as it is amended from time to time. To the extent the Cost of the Work exceeds the Guaranteed Maximum Price, the Construction Manager shall bear such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.

(Insert specific provisions if the Construction Manager is to participate in any savings.)

All savings below the Guaranteed Maximum Price shall remain with the Owner. No change in the Work or the materials or labor utilized in connection therewith shall be the basis for an addition to the Guaranteed Maximum Price or the Construction Manager's maximum fees unless and until the same has been authorized and approved in writing by the Owner, which approval shall not be unreasonably withheld.

§ 5.2.2 The Guaranteed Maximum Price is subject to additions and deductions by Change Order as provided in the Contract Documents and the Date of Substantial Completion shall be subject to adjustment as provided in the Contract Documents.

The Date of Substantial Completion shall not be adjusted for a change in the Work unless the Construction Manager demonstrates to the Owner's reasonable satisfaction, in the Owner's sole discretion, that the change in the Work will affect the critical path of the Construction Manager's schedule.

§ 5.2.3 Construction Manager shall prepare a detailed cost breakdown of the Guaranteed Maximum Price based on the Drawings provided by the Architect and shall update this cost breakdown throughout the project subject to Owner's approval of any change orders. The Cost breakdown should be in the Standard Construction Specialties Institute ("CSI") format.

§ 5.3 Changes in the Work

§ 5.3.1 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 Architect may make minor changes in the Work as provided in Section 7.4 of AIA Document A201-2007, General Conditions of the Contract for Construction. The Construction Manager shall be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work. The Date of Substantial Completion shall not be adjusted for a change in Work unless the Construction Manager demonstrates to the Owner's reasonable satisfaction, in the Owner's sole discretion, that the change in the Work will affect the critical path of the Construction Manager's schedule.

Changes in the Work shall not be the basis of an addition to the Guaranteed Maximum Price or the Construction Manager's Fee unless and until such change has been approved authorized by a Change Order executed and issued in accordance with the Contract
(Paragraph Deleted)

Documents.

§ 5.3.2 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 Section 7.3.3 of AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 5.3.3 In calculating adjustments to subcontracts (except those awarded with the Owner's prior consent on the basis of cost plus a fee), the terms "cost" and "fee" as used in Section 7.3.3.3 of AIA Document A201-2007 and the term "costs" as used in Section 7.3.7 of AIA Document A201-2007 shall have the meanings assigned to them in AIA Document A201-2007 and shall not be modified by Sections 5.1 and 5.2, Sections 6.1 through 6.7, and Section 6.8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 5.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in the above-referenced provisions of AIA Document A201-2007 shall mean the Cost of the Work as defined in Sections 6.1 to 6.7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 5.1 of this Agreement.

§ 5.3.5 If no specific provision is made in Section 5.1.2 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 5.1.2 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 6 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 6.1 Costs to Be Reimbursed

§ 6.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in Sections 6.1 through 6.7.

§ 6.1.2 Where any cost is subject to the Owner's prior approval, the Construction Manager shall obtain this approval prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing Guaranteed Maximum Price Amendment.

§ 6.2 Labor Costs

§ 6.2.1 Wages 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.

§ 6.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site with the Owner's prior approval.

(If it is intended that the wages or salaries of certain personnel stationed at the Construction Manager's principal or other offices shall be included in the Cost of the Work, identify in Section 11.5, the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

§ 6.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or on the road, 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.

§ 6.2.4 Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such 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 6.2.1 through 6.2.3.

§ 6.2.5 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, with the Owner's prior approval.

§ 6.2.6 Wages and salaries for purposes of this Section 6.2 are set forth in Exhibit B1, attached hereto and incorporated herein by reference. Labor costs shall be charged as a Cost of the Work at stipulated fixed rates and shall not be subject to change during the term hereof except by Owner's written consent.

§ 6.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts that are properly entered into pursuant to this Agreement.

§ 6.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 6.4.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

§ 6.4.2 Costs of materials described in the preceding Section 6.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall be properly stored at a location designated by the Owner, and 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.

§ 6.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 6.5.1 Costs of transportation, storage, installation, maintenance, dismantling 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.

§ 6.5.2 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 costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Construction Manager-owned item may not exceed the purchase price of any comparable item. Rates of Construction Manager-owned equipment and quantities of equipment shall be subject to the Owner's prior approval. **Rental costs and rates for purposes of this subsection 6.5.2 are set forth in Exhibit B2, attached hereto and incorporated herein by reference. Rental costs and rates shall be charged as a Cost of the Work at stipulated fixed rates, and shall not be subject to change during the term hereof except by Owner's written consent.**

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

§ 6.5.4 Costs of document reproductions, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.

§ 6.5.5 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.

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

§ 6.6 Miscellaneous Costs

§ 6.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract. Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior written approval.

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

§ 6.6.3 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.

§ 6.6.4 Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 13.5.3 of AIA Document A201-2007 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 6.7.3.

§ 6.6.5 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents unless Construction Manager knew or should have known of such infringement; and 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. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Construction Manager's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the last sentence of Section 3.17 of AIA Document A201-2007 or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.

§ 6.6.6 Costs for electronic equipment and software, directly related to the Work with the Owner's prior approval.

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

§ 6.6.8 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 written approval, which shall not be unreasonably withheld.

§ 6.6.9 Subject to the Owner's prior written approval, 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.

§ 6.7 Other Costs and Emergencies

§ 6.7.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

§ 6.7.2 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 Section 10.4 of AIA Document A201-2007 to the extent not (a) caused by the Construction Manager, a subcontractor or anyone for whom either is responsible, or (b) capable of being prevented through timely notice of an unsafe condition to the Owner.

§ 6.7.3 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 negligence or failure to fulfill a specific responsibility of 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.

§ 6.7.4 The costs described in Sections 6.1 through 6.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201-2007 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 6.8.

§ 6.8 Costs Not To Be Reimbursed

§ 6.8.1 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 6.2, or as may be provided in Article 11;
- .2 Expenses of the Construction Manager's principal office and offices other than the site office;
- .3 Overhead and general expenses, except as may be expressly included in Sections 6.1 to 6.7;
- .4 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .5 Except as provided in Section 6.7.3 of this Agreement, costs due to the negligence or failure of the Construction Manager, Subcontractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Sections 6.1 to 6.7;
- .7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .8 Costs for services incurred during the Preconstruction Phase.

§ 6.9 Discounts, Rebates and Refunds

§ 6.9.1 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 them 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.

§ 6.9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 6.9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ 6.10 Related Party Transactions

§ 6.10.1 For purposes of Section 6.10, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Construction Manager; any entity in which any

Init.

stockholder in, or management employee of, the Construction Manager owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Construction Manager. The term "related party" includes any member of the immediate family of any person identified above.

§ 6.10.2 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, 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 Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3. If the Owner fails to authorize the transaction, 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 Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3.

§ 6.11 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, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, purchase orders, vouchers, memoranda and other data relating to this Contract. 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. All accounting records shall be maintained in accordance with generally accepted accounting practices consistently applied.

ARTICLE 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 7.1 Progress Payments

§ 7.1.1 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.

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

§ 7.1.3 Provided that an Application for Payment is received by the Architect not later than the last day of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than the last day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than forty-five (45) days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 7.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, subcontractor lien waivers as required or otherwise requested by Owner or Architect and any other evidence required by the Owner or Architect to demonstrate that 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, less that portion of those payments attributable to the Construction Manager's Fee, plus payrolls for the period covered by the present Application for Payment.

§ 7.1.5 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 the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 7.1.6 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 for which the Construction Manager has made or intends to make actual 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.

§ 7.1.7 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take 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 schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201-2007;
- .2 Add 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 Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Construction Manager's Fee, less retainage of five percent (5 %). The Construction Manager's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage of five percent (5 %) from that portion of the Work that the Construction Manager self-performs;
- .5 Subtract the aggregate of previous payments made by the Owner;
- .6 Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by Section 7.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .7 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007 and amounts about which there is a legitimate dispute as to whether payment is due; and
- .8 Retainage shall not be released to the Construction Manager until the date of Final Settlement, as set forth in Colorado law and described in Section 7.2.4, and retained funds may continue to be held by the Owner to satisfy verified statements of claims as provided in Colorado law.

§ 7.1.8 The Owner and Construction Manager shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

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

§ 7.1.10 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 shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 7.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or 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.

§ 7.2 Final Payment

§ 7.2.1 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 Section 12.2.2 of AIA Document A201-2007, 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;
- .3 **The Construction Manager has submitted complete and legally effective releases or waivers satisfactory to Owner of any and all lien rights, if any, arising out of the Work or in relation to the Project; and**
- .4 a final Certificate for Payment has been issued by the Architect.

The Owner's final payment to the Construction Manager shall be made no later than thirty (30) days after the issuance of the Architect's final Certificate for Payment, subject to the provisions of Colo. Rev. Stat. 38-26-107 as provided herein, or as follows:

N/A

§ 7.2.2 The Owner's auditors will review and report in writing on the Construction Manager's final accounting within 30 days after delivery of the final accounting to the Architect by the Construction Manager. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Construction Manager's final accounting, and provided the other conditions of Section 7.2.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner's auditors, 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 Section 9.5.1 of the AIA Document A201-2007. The time periods stated in this Section supersede those stated in Section 9.4.1 of the AIA Document A201-2007. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 7.2.3 If the Owner's auditors report the Cost of the Work as substantiated by the Construction Manager's final accounting to be 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 Section 15.2 of A201-2007. 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.

§ 7.2.4 The Architect will not issue the final Certificate for Payment and final payment will not be made until the time of final settlement shall be established by the Owner and shall thereafter be advertised by two (2) publications of notice, the last of which shall appear at least ten (10) days prior to the time of final settlement as required pursuant to Colo. Rev. Stat. 38-26-107. The Owner shall withhold from all payments to Construction Manager sufficient funds to insure the payment of all claims filed by any person that has furnished labor, materials, sustenance, or other supplies used or consumed by Construction Manager or a subcontractor in or about the performance of the Work, or that supplies laborers, rental machinery, tools, or equipment to the extent used in the prosecution of the Work whose claim therefore has not been paid by Construction Manager or the subcontractor, all in accordance with the provisions of Colo. Rev. Stat. 38-26-107.

ARTICLE 8 INSURANCE AND BONDS

For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201-2007.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201-2007.)

(Table Deleted)

§ 8.1 For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain the insurance required by the Article and as set forth in Article 11 of the AIA Document 201-2007. The Construction

Manager shall require that each Subcontractor procure and maintain, at its own cost and expense, the requisite insurance.

§ 8.2 Construction Manager shall provide and maintain during the performance of this Agreement the insurance described below, which insurance shall be placed with a company or companies authorized to do business in the State of Colorado with an A.M. Best's Insurance Report rating at not less than A-/VI.

§ 8.3 Prior to commencement of Work, the Construction Manager shall furnish and deliver to the Owner proof that the following insurance shall be in force and effect for the duration of the Project. All Certificates of Insurance relating to Broad Form General Liability, Automobile Liability and Excess Liability, shall list Owner as Additional project-specific insured. Additional Insured Endorsements will be provided to Owner by Construction Manager's Insurance Company with other Certificate of Insurance.

§ 8.4 Standard Form Commercial General Liability and Property Damage insurance (as provided on an ISO CG 00 01 form) that includes coverage for (a) Claims for bodily injury, including death, and property damage; and (b) contractual liability on an occurrence basis and shall include fire, explosion, collapse, underground hazard and product/completed operations coverages. Minimum limits: General Aggregate \$2,000,000; Products/Completed Operations Aggregate \$2,000,000; Personal and Advertising Injury \$1,000,000; Each Occurrence \$2,000,000.

§ 8.5 Construction Manager's workers compensation insurance, at statutory limits, as required by Colorado law, covering all employees working on the site, and Employer's Liability Insurance with the following minimum limits: Each Accident \$500,000; Each Occupational Disease \$500,000; Occupational Disease Aggregate \$500,000.

§ 8.6 Automobile Liability insurance, covering the use, operation and maintenance of any automobiles, trucks, trailers or other vehicle owned, hired, or non-owned by the Construction Manager providing bodily injury, including death, and property damage coverage. Minimum limits of liability provided by this coverage shall be a Combined Single Limit of \$1,000,000.

§ 8.7 Excess Liability Insurance with a minimum limit of \$5,000,000 for each occurrence and aggregate of \$10,000,000.

§ 8.8 Standard, all risk of loss Builder's Risk completed value insurance. The amount of the standard deductible under the Builder's Risk Policy shall not exceed \$10,000.00 and the amount of the deductible for flood and water damage shall not exceed \$25,000.00. Notwithstanding the foregoing, the Owner recognizes and agrees that, if the Project is located in a flood zone, the deductible may be higher. In such case, the Contractor shall notify the Owner of the amount of the deductible. The Builder's Risk Insurance shall be carried by the Construction Manager at 100% of the Contract amount, totaling the GMP.

§ 8.9 Professional Liability Insurance (errors and Omissions), covering any design services provided under this Agreement by design/build subcontractors or suppliers, including contractual liability insurance against the liability assumed in this Agreement, as is acceptable to and approved by the Owner. Such insurance shall have a minimum policy limits of \$1,000,000 in the aggregate and \$1,000,000 per claim and a maximum deductible of \$25,000 (all deductibles to be paid by Construction Manager and/or design/build subcontractor). The insurance provided must be primary to any insurance coverage carried by Owner.

§ 8.10 Worker's Compensation insurance as required by Colorado law during the term of this Agreement, covering all persons working on the Project.

§ 8.11 The full aggregate liability policy limits required above shall be available with respect to the Construction Manager's obligations hereunder, and the Construction Manager shall obtain a location specific aggregate limited endorsement confirming such coverages as to Owner and additional insureds. The Construction Manager agrees to notify Owner and additional insureds of any substantial claims, paid or resolved, applied against the aggregate of any of the required insurance policies.

§ 8.12 All insurance provided by the Construction Manager hereunder shall be primary to any insurance policies held by the Owner and additional insureds. The Construction Manager waives subrogation as to the Owner and its agents, representatives, affiliates, additional insureds, and assigns on all policies carried by the Construction

Manager. If the words "endeavor to" appear in the portion of the certificate addressing cancellation, those words shall be stricken from the certificate by the agent(s) completing the certificate.

§ 8.13 All insurance shall include a provision prohibiting cancellation, termination or alteration (so as to affect the intent of this Agreement) without thirty (30) days' prior notice by certified mail to the Owner. In the event of threatened cancellation for nonpayment or nonrenewal, the Owner may pay the same on behalf of the Construction Manager, at the Owner's discretion, and deduct the same from any amount of payment due to the Construction Manager hereunder.

§ 8.14 Payments for services provided will be withheld from Construction Manager until acceptable Certificates of Insurance and Additional Insured Endorsements are received by Owner.

§ 8.15 No Work will be conducted on the Project site until satisfactory evidence has been submitted that the Construction Manager has insurance that complies with the specific insurance and indemnity requirements listed in the Contract Documents. Construction Manager is also responsible to verify that any design/build subcontractors (any subcontractor providing engineered drawings for review and approval), including but not limited to joist manufacturers, fire alarm subcontractors, fire sprinkler subcontractors, security subcontractors, landscape irrigation engineers, and precast concrete subcontractors, carry the following Professional Errors and Omissions Insurance: Professional Liability (Errors and Omissions), covering the services provided under this Agreement, including contractual liability insurance against the liability assumed in the Agreement, as is acceptable to and approved by Owner. The insurance provided must be primary to any insurance coverage carried by Owner.

§ 8.16 The Construction Manager shall maintain a performance bond and separate labor and material payment bond, which shall (a) be executed by a corporate surety licensed to do business in the State, (b) be in customary form, (c) be in the amount payable to Construction Manager hereunder or to such subcontractor pursuant to its contract with the Construction Manager and (d) be payable to the Owner. A copy of each such bond and all modifications thereto shall be furnished to the Owner.

8.17 Absent written consent of Owner, insurance costs shall be as follows: (a) for comprehensive general liability insurance, 1.15% of the Cost of the Work; (b) for builder's risk insurance, .20% of the Cost of the Work; and (c) for performance and payment bonds, .76% of the Cost of the Work.

ARTICLE 9 DISPUTE RESOLUTION

§ 9.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 9 and Article 15 of A201-2007. 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 9.3 of this Agreement shall not apply.

§ 9.2 For any Claim subject to, but not resolved by mediation pursuant to Section 15.3 of AIA Document A201-2007, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Construction Manager do not select a method of binding dispute resolution below, 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.)

- ☐ Arbitration pursuant to Section 15.4 of AIA Document A201-2007
- ☒ Litigation in a court of competent jurisdiction
- ☐ Other: *(Specify)*

§ 9.3 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A201-2007 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

ARTICLE 10 TERMINATION OR SUSPENSION

§ 10.1 Termination Prior to Establishment of the Guaranteed Maximum Price

§ 10.1.1 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 Section 14.1.1 of A201-2007.

§ 10.1.2 In the event of termination of this Agreement pursuant to Section 10.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services 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 4.1.

§ 10.1.3 If the Owner terminates the Contract pursuant to Section 10.1.1 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 10.1.2:

- .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 5.1 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 Phase services.

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 which the Owner elects to retain and which is not otherwise included in the Cost of the Work under Section 10.1.3.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 10, 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 assignment to the Owner as described above.

If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs 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. 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.

§ 10.2 Termination Subsequent to Establishing Guaranteed Maximum Price

Following execution of the Guaranteed Maximum Price Amendment and subject to the provisions of Section 10.2.1 and 10.2.2 below, the Contract may be terminated as provided in Article 14 of AIA Document A201-2007.

§ 10.2.1 If the Owner terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager pursuant to Sections 14.2 and 14.4 of A201-2007 shall not exceed the amount the Construction Manager would otherwise have received pursuant to Sections 10.1.2 and 10.1.3 of this Agreement.

§ 10.2.2 If the Construction Manager terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager under Section 14.1.3 of A201-2007 shall not exceed the amount the Construction Manager would otherwise have received under Sections 10.1.2 and 10.1.3 above.

§ 10.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007. In such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A201–2007, except that the term “profit” shall be understood to mean the Construction Manager’s Fee as described in Sections 5.1 and 5.3.5 of this Agreement.

ARTICLE 11 MISCELLANEOUS PROVISIONS

§ 11.1 Terms in this Agreement shall have the same meaning as those in A201–2007.

§ 11.2 Ownership and Use of Documents

Section 1.5 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 11.3 Governing Law and Venue

Section 13.1 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 11.4 Assignment

The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Construction Manager shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner’s rights and obligations under this Agreement. Except as provided in Section 13.2.2 of A201–2007, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 11.5 Other provisions:

§ 11.5.1 Attorney’s Fees: If legal proceedings are hereafter brought to enforce any of the provisions of the Agreement, including an action for specific performance and/or damages, the prevailing party, to the extent permitted by law, shall be entitled to recover the costs of such proceedings, including reasonable attorney’s fees and reasonable expert witness fees.

§ 11.5.2 One hundred percent (100%) of the project/value engineering savings shall accrue to the Owner.

§ 11.5.3 The Owner has retained Beau LaCouture as the Owner’s Representative. The Construction Manager shall fully cooperate with the Owner and the Owner’s Representative.

§ 11.5.4 The Construction Manager shall:

1. Prepare and update a consolidated project schedule on a weekly basis until Substantial Completion and provide copies to the Owner, the Owner’s Representative and the Architect as soon as the schedule is prepared.
2. Support value-engineering efforts to reduce costs and to identify reasonable equivalent materials and supplies.
3. Support Owner in meeting requirements imposed upon the Owner for financing.
4. Conduct weekly construction meetings, until Substantial Completion, with all Subcontractors and any other necessary Project participants and endeavor to include the Owner, Architect and Owner’s Representative and thereafter develop and distribute minutes of all such meetings.
5. If requested by Owner’s Representative, participate in Project meetings conducted by the Owner’s Representative.

§ 11.5.5 Nothing herein shall be construed as a waiver of the limitations on damages or any of the privileges, immunities or defenses provided to, or enjoyed by, Owner under common law or pursuant to statute, including but not limited to the Colorado Governmental Immunity Act, §§ 24-10-101 *et seq.*, C.R.S., as from time to time amended.

§ 11.5.6 Construction Manager will cooperate with other contractors, if any, to ensure harmonious working relationships.

§ 11.5.7 Construction Manager shall leave the site in a reasonably neat, clean, orderly and safe condition at the end of each day during construction of the Work.

§ 11.5.8 Construction Manager shall procure and maintain and cause its Subcontractors to procure and maintain insurance described in this document.

§ 11.5.9 The Construction Manager shall maintain and accurate set of as-built drawings at the site. At the completion of the Work, the Construction Manager shall certify by signing on them that each of the as-built drawings and specifications are complete and accurate, Not later than thirty (30) days after Substantial Completion of the Work and prior to application for Final Payment, and as a condition to its approval by the Architect and Owner, the Construction Manager shall transfer the job site as-built drawings, arranged in proper order, indexed and certified as accurate to the Architect for transmittal to the Owner. The Construction Manager shall not be responsible for transferring to the as-built documents any addenda, clarifications or changes documented by the Architect and its consultants.

§ 11.5.10 Any purchased materials remaining after completion of the subject portion of the Work (such as, for example, extra paint, wall coverings or carpet) shall be properly stored and provided by Construction Manager to Owner for use in subsequent repairs. Materials should be labeled, sealed, boxed and protected as appropriate to ensure the materials remain in good condition.

§ 11.5.11 All Work performed by Construction Manager, or any Subcontractor or person performing work on its behalf, shall be guaranteed against defective workmanship and materials for a period of two (2) years from the date of Substantial Completion, provided that such two-year period shall not begin with respect to any portion of the Work that is not completed on the date of Substantial Completion, but shall begin when the item is subsequently completed and Owner provides written notice of such completion.

§ 11.5.12 If requested by the Owner, the Construction Manager will furnish Owner with sworn Construction Manager's statements, Construction Manager's affidavits and partial and final waivers of lien, in such form and content as Owner may require, in order to establish that the cost of all labor, services and materials furnished in connection with the Owner's Work has been paid in full and to keep the premises free from all liens and claims.

§ 11.5.13 Construction Manager and Owner acknowledge that they or their employees may, in the performance of the Agreement, come into the possession of proprietary or confidential information owned by or in the possession of the other. Neither party shall use any such information for its own benefit or make such information available to any person, firm, corporation, or other organization, regardless of whether directly or indirectly affiliated with Construction Manager or Owner, unless (i) required by law, (ii) by order of any court or tribunal, (iii) such disclosure is necessary for the assertion of a right, or defense of an assertion of a right, by one party against the other party hereto, or (iv) such information has been acquired from other sources.

§ 11.5.14 Construction Manager agrees that no smoking shall be permitted inside the facility.

§ 11.5.15 Upon Substantial Completion and for a period of fifteen (15) calendar days thereafter, the Construction Manager shall replace burned out light bulbs at no cost to the Owner. Owner acknowledges that Construction Manager is not responsible to re-lamp usable bulbs in permanent light fixtures.

§ 11.5.16 The Construction Manager shall provide notification within 72 hours after becoming aware of the basis of any request for change. The Construction Manager shall develop and submit pricing of proposed changes within seven (7) days after a solution has been provided. The Owner shall provide a written response to the Construction Manager's proposal within ten (10) business days of the Owner's receipt of the Construction Manager's submission.

§ 11.5.17 The Construction Manager shall include with every Subcontract agreement the following language:
"Subcontractor binds itself to Construction Manager and Owner and is obligated to Construction Manager and Owner in the same manner and to the same extent that Construction Manager is bound and obligated to Owner under the AIA Document A133-2009 Agreement executed between Construction Manager and Owner on April __, 2018 related to the construction of the Johnstown Community Center. All rights which Owner may exercise and enforce against Construction Manager may be exercised and enforced by Owner against Subcontractor. In the event of any

dispute between the Owner and Construction Manager, Subcontractor shall be bound by all decisions, directives, and interpretations and rulings of the Owner, including Owner's termination or suspension of Construction Manager."

§ 11.5.18 The Construction Manager represents that it (1) has sufficient knowledge and expertise to construct the Work in accordance with all applicable codes and regulations; (2) has reviewed, analyzed, and has current knowledge of the site; (3) has reviewed, analyzed and has found sufficient for construction and completion of the Work the Contract Documents listed in this Agreement; any exceptions to this statement have been specifically identified in this Agreement. The Construction Manager represents and warrants that it can and will complete the Work for the Contract Sum identified in this Agreement, and that no sums additional to the Contract Sum are required for Construction Manager's completion of the Work.

§ 11.5.19 The parties agree expressly that the intent of the Contract Documents is to include in the Work to be performed by the Construction Manager all labor, materials and supplies, insurance, tools, equipment, licenses, taxes (exclusive of real estate taxes and Town of Johnstown Use Taxes), transportation, and field surveying and other services and items necessary for the Project to be a complete and workable system as required for the satisfactory performance, execution and final completion of the Work. Matters not expressly included as part of the Work and the Construction Manager's responsibility.

§ 11.5.20 Construction Manager hereby waives and releases any and all claims for consequential and/or indirect damages including but not limited to attorney's fee for loss profits, lost opportunities, lost bonding capacity and/or damages to reputation.

§ 11.6 Illegal Aliens:

§ 11.6.1 Pursuant to Colo. Rev. Stat. 8-17.5-101 et. seq., Owner cannot enter into or renew a public contract for services with a contractor who knowingly employs or contracts with an illegal alien to perform work under the contract or who knowingly contracts with a subcontractor who knowingly employs or contracts with an illegal alien to perform work under the contract.

§ 11.6.2 In accordance with the mandatory provisions of Colo. Rev. Stat. 8-17.5-101 et. seq., Construction Manager certifies that it has not knowingly employed or contracted with any illegal alien to perform work under this Agreement, and that Construction Manager will participate in the E-Verify Program or the Department program [as defined in Colo. Rev. Stat. 8-17.5-101(3.3)] in order to confirm the employment eligibility of all employees who are newly hired to perform work under this Agreement. Construction Manager further certifies that it will not enter into a contract with a subcontractor who fails to certify to Construction Manager that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

§ 11.6.3 Construction Manager has confirmed the employment eligibility of all employees who are newly hired to perform work under this Agreement through participation in either the E-Verify or the Department Program. Construction Manager shall not use the E-Verify Program or the Department Program to undertake pre-employment screening of job applicants while the Agreement is being performed.

If Construction Manager obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Construction Manager shall:

1. Notify the subcontractor and Owner within three (3) days that Construction Manager has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
2. Terminate the subcontract if within three (3) days of receiving actual notice the subcontractor does not stop employing or contracting with the illegal alien, except the Construction Manager shall not terminate the subcontractor if during
3. such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

§ 11.6.4 Construction Manager shall comply with any reasonable request by the Department of Labor and Employment (hereinafter referred to as the "Department") made in the course of an investigation that the Department is undertaking pursuant to C.R.S. 8-17.5-102(5)

§ 11.6.5 If Construction Manager violates the provisions of this paragraph, Owner may terminate the contract for breach and Construction Manager shall be liable for actual and consequential damages.

§ 11.7 Whenever the Agreement references the requirement to obtain the Owner's approval or consent, in any context in the Agreement, such approval or consent must be obtained in writing. The writing requirement referenced herein may be satisfied by email communication properly delivered and received.

ARTICLE 12 SCOPE OF THE AGREEMENT

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

§ 12.2 The following documents comprise the Agreement:

- .1 AIA Document A133-2009, 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 A201-2007, General Conditions of the Contract for Construction
- .3 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:
- .4 AIA Document E202™-2008, Building Information Modeling Protocol Exhibit, if completed, or the following:
- .5 Other documents:


(Paragraph Deleted)

Exhibit A - Clarification Regarding Construction Manager's PreConstruction Services Fee Breakdown
Exhibit B1- Construction Manager's Standard Personnel Rates
Exhibit B2 - Equipment Rental ~~Plans~~ *Rates*
Exhibit C - A201-~~2017~~ *2007* (modified) General Conditions for Construction

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

OWNER (Signature)

(Printed name and title)



CONSTRUCTION MANAGER (Signature)

J. DOUGLAS JOHNSON, VICE PRESIDENT
(Printed name and title) AR MOUNTAIN STATES

Additions and Deletions Report for AIA® Document A133™ – 2009

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 17:09:16 on 04/05/2018.

PAGE 1

AGREEMENT made as of the 4th day of April in the year 2018

...

The Town of Johnstown
450 S. Parish Avenue
Johnstown, CO 80534

...

AP Mountain States, LLC dba Adolfson & Peterson Construction
797 Ventura St.
Aurora, CO 80011

...

Johnstown Community Recreation Center
Weld CR 17 and CR 46 1/2 - NE Intersection
Johnstown, CO 80534

...

Perkins + Will
475 Lincoln St.
Denver, CO 80203

...

Beau LaCouture

...

LaCouture, Inc.
18020 Bolero Drive
Parker, CO 80134

PAGE 2

Chris Kastelic
Perkins + Will
475 Lincoln St.
Denver, CO 80203

PAGE 3

TABLE OF ARTICLES

PAGE 4

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

...

The Construction Manager shall develop bidders' interest in the Project. -As working drawings and specifications are completed, Construction Manager will establish bidding schedules and conduct pre-bid conferences to familiarize bidders with bidding documents, management techniques and any special systems, materials or methods. Construction Manager will prepare scope packages for each trade which clearly identify the bid scope, including general conditions items such as cleanup and safety. Construction Manager will review scope packages with the Owner and Architect prior to issuing same to subcontractors. Construction Manager will analyze all bids and prepare: 1) a bid matrix and scoring method (approved in advance by the Owner), 2) written bid analysis, 3) review bids and bid analysis with the Owner and Architect, 4) make recommendations for contract awards, and 5) with consent of Owner, award subcontracts. The Owner shall not be bound to accept the lowest priced bid if that bid, in the discretion of the Owner, is not deemed to be in the best interest of the Owner.

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

...

.6 The Guaranteed Maximum Price proposal and agreed upon Substantial Completion date will include a liquidated damages provision of one thousand dollars (\$1,00.00) per calendar day for late completion beyond Substantial Completion date plus any approved time extensions.

...

§ 2.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include its contingency for the Construction Manager's ~~exclusive use~~use, subject to Owner's written approval, to cover those costs considered reimbursable as the Cost of the Work but not included in a Change Order.

PAGE 6

§ 2.2.9 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, at the time the Guaranteed Maximum Price Amendment is executed.

...

Notwithstanding the foregoing, the parties acknowledge and agree that the Owner is a tax-exempt public entity, and all materials incorporated into the work and all equipment and supplies expended and/or used to exhaustion in the course of the work on the Project may be purchased without payment of sales tax. Accordingly, no sales tax or other taxes on materials incorporated into the work, or upon equipment or supplies expended and/or used to exhaustion in the course of the work, shall be included in the calculation of the Guaranteed Maximum Price

...

§ 2.3.1.1 For purposes of Section 8.1.2 of A201-2007, the date of commencement of the Work shall mean the date of ~~commencement of the Construction Phase~~the Construction

...

Manager receives a construction building permit from the applicable jurisdictional authority and a written Notice to Proceed with the Work as stated in Article 2.3.1.2.

...

§ 2.3.1.2 The Construction Phase shall commence upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price ("GMP") proposal or the Owner's issuance of a Notice to Proceed, whichever occurs earlier.

PAGE 7

§ 3.1.2 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. Thereafter, the Construction Manager may only request such evidence if (1) the Owner fails to make payments to the Construction Manager as the Contract Documents require, (2) a change in the Work materially changes the Contract Sum, or (3) the Construction Manager identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material

change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Construction Manager and Architect. Pursuant to C.R.S. § 24-91-103.6, as may be amended from time to time, the Owner has appropriated the money necessary to fund this Project. No change order or other form of directive shall be issued by the Owner requiring additional compensable work to be performed, which causes the aggregate amount payable under this Agreement to exceed the amount appropriated for the original contract amount, unless the Owner provides written assurance to the Construction Manager that lawful appropriations have been made to cover the cost of the additional work or unless such work is covered under the remedy-granting provisions of this Agreement.

PAGE 8

§ 3.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, 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. The Construction Manager shall exercise reasonable diligence and critical judgment in the review of such information, reports, surveys, drawings and tests prior to proceeding with any work or activity based upon the same.

...

§ 3.1.4.2 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 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 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.

...

§ 3.1.4.3 The Owner, when such services are requested, ~~reasonable and necessary and requested by the Construction Manager~~, shall furnish services of geotechnical engineers, which may include but are not limited to 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.

...

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™ 2014, B103™ 2007, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition. The Owner including any additional services requested by the Construction Manager that are necessary, as determined by the Owner's in Owner's sole discretion, for the Preconstruction and Construction Phase services under this Agreement. Upon request of the Construction Manager, the Owner, in its discretion, shall provide the Construction Manager a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement.

PAGE 9

The Construction Manager's Fee will be a lump sum of (\$56,250.00) and will be charged on a monthly basis as a percentage of the Cost of the Work in each pay application. The lump sum is based upon an assumption of an eight (8) month time period, and may, with Owner's written consent, be equitably adjusted if the duration is in excess of said assumption.

...

§ 4.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within eight (8) 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.

...

§ 4.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid forty-five (45) 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.

...

1.5 %

...

The Construction Manager's Fee shall be two and five tenths percent (2.5%) of the Cost of Work, invoiced on a monthly basis as otherwise provided in the Agreement in each pay application once the GMP is approved.

...

The Construction Manager's Fee for changes in Work shall be two and five tenths percent (2.5%) of the Cost of the additional Work, except that the Construction Manager shall not charge a Construction Manager's Fee for the first \$250,000.00 of additional costs above and beyond the GMP

...

fifteen (15%) percent

...

§ 5.1.4 Rental rates for Construction Manager-owned equipment shall not exceed N/A percent (%) of the standard rate paid at the place of the Project.

PAGE 10

All savings below the Guaranteed Maximum Price shall remain with the Owner. No change in the Work or the materials or labor utilized in connection therewith shall be the basis for an addition to the Guaranteed Maximum Price or the Construction Manager's maximum fees unless and until the same has been authorized and approved in writing by the Owner, which approval shall not be unreasonably withheld.

...

The Date of Substantial Completion shall not be adjusted for a change in the Work unless the Construction Manager demonstrates to the Owner's reasonable satisfaction, in the Owner's sole discretion, that the change in the Work will affect the critical path of the Construction

...

Manager's

...

schedule.

...

§ 5.2.3 Construction Manager shall prepare a detailed cost breakdown of the Guaranteed Maximum Price based on the Drawings provided by the Architect and shall update this cost breakdown throughout the project subject to Owner's approval of any change orders. The Cost breakdown should be in the Standard Construction Specialties Institute ("CSI") format.

...

§ 5.3.1 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 Architect may make minor changes in the Work as provided in Section 7.4 of AIA Document A201-2007, General Conditions of the Contract for Construction. The Construction Manager shall be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work. The Date of Substantial Completion shall not be adjusted for a change in Work unless the Construction Manager demonstrates to the Owner's reasonable satisfaction, in the Owner's sole discretion, that the change in the Work will affect the critical path of the Construction Manager's schedule.

...

Changes in the Work shall not be the basis of an addition to the Guaranteed Maximum Price or the Construction Manager's Fee unless and until such change has been approved authorized by a Change Order executed and issued in accordance with the Contract

...

§

...

Documents.

...

§ 5.3.2 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 Section 7.3.3 of AIA Document A201-2007, General Conditions of the Contract for Construction.

PAGE 11

§ 6.2.6 Wages and salaries for purposes of this Section 6.2 are set forth in Exhibit B1, attached hereto and incorporated herein by reference. Labor costs shall be charged as a Cost of the Work at stipulated fixed rates and shall not be subject to change during the term hereof except by Owner's written

§ consent.

...

§ 6.3 Subcontract Costs

...

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts-subcontracts that are properly entered into pursuant to this Agreement.

...

§ 6.4.2 Costs of materials described in the preceding Section 6.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall be properly stored at a location designated by the Owner, and 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.

PAGE 12

§ 6.5.2 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 costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Construction Manager-owned item may not exceed the purchase price of any comparable item. Rates of Construction Manager-owned equipment and quantities of equipment shall be subject to the Owner's prior approval. Rental costs and rates for purposes of this subsection 6.5.2 are set forth in Exhibit B2, attached hereto and incorporated herein by reference. Rental costs and rates shall be charged as a Cost of the Work at stipulated fixed rates, and shall not be subject to change during the term hereof except by Owner's written consent.

...

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

...

§ 6.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract. Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior written approval.

...

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

...

§ 6.6.5 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; Documents unless Construction Manager knew or should have known of such infringement; and 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. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Construction Manager's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the last sentence of Section 3.17 of AIA Document A201-2007 or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.

PAGE 13

§ 6.6.8 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 written approval, which shall not be unreasonably withheld.

§ 6.6.9 Subject to the Owner's prior written approval, 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.

§ 6.7.2 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 Section 10.4 of AIA Document A201-2007-~~A201-2007~~ to the extent not (a) caused by the Construction Manager, a subcontractor or anyone for whom either is responsible, or (b) capable of being prevented through timely notice of an unsafe condition to the Owner.

PAGE 14

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, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, purchase orders, vouchers, memoranda and other data relating to this Contract. 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. All accounting records shall be maintained in accordance with generally accepted accounting practices consistently applied.

§ 7.1.3 Provided that an Application for Payment is received by the Architect not later than the last day of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than the last day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than forty-five (45) days after the Architect receives the Application for Payment.

§ 7.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, subcontractor lien waivers as required or otherwise requested by Owner or Architect and any other evidence required by the Owner or Architect to demonstrate that 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, less that portion of those payments attributable to the Construction Manager's Fee, plus payrolls for the period covered by the present Application for Payment.

PAGE 15

- .3 Add the Construction Manager's Fee, less retainage of five percent (5 %). The Construction Manager's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1 or, if the

Construction Manager's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;

- ...
- .4 Subtract retainage of five percent (5 %) from that portion of the Work that the Construction Manager self-performs;
- ...
- .7 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007-~~A201-2007~~ and amounts about which there is a legitimate dispute as to whether payment is due; and
- ...
- ~~.8 Retainage shall not be released to the Construction Manager until the date of Final Settlement, as set forth in Colorado law and described in Section 7.2.4, and retained funds may continue to be held by the Owner to satisfy verified statements of claims as provided in Colorado law.~~

PAGE 16

- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment;
- ...
- ~~.3 The Construction Manager has submitted complete and legally effective releases or waivers satisfactory to Owner of any and all lien rights, if any, arising out of the Work or in relation to the Project; and~~
- ...
- ~~.3~~ .4 a final Certificate for Payment has been issued by the Architect.

...

The Owner's final payment to the Construction Manager shall be made no later than ~~30~~ thirty (30) days after the issuance of the Architect's final Certificate for Payment, subject to the provisions of Colo. Rev. Stat. 38-26-107 as provided herein, or as follows:

...

N/A

...

§ 7.2.4 If, subsequent to final payment and at the Owner's request, the Construction Manager incurs costs described in Section 6.1.1 and not excluded by Section 6.8 to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager 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 the Construction Manager has participated in savings as provided in Section 5.2.1, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Construction Manager. The Architect will not issue the final Certificate for Payment and final payment will not be made until the time of final settlement shall be established by the Owner and shall thereafter be

advertised by two (2) publications of notice, the last of which shall appear at least ten (10) days prior to the time of final settlement as required pursuant to Colo. Rev. Stat. 38-26-107. The Owner shall withhold from all payments to Construction Manager sufficient funds to insure the payment of all claims filed by any person that has furnished labor, materials, sustenance, or other supplies used or consumed by Construction Manager or a subcontractor in or about the performance of the Work, or that supplies laborers, rental machinery, tools, or equipment to the extent used in the prosecution of the Work whose claim therefore has not been paid by Construction Manager or the subcontractor, all in accordance with the

provisions of Colo. Rev. Stat. 38-26-107.

Type of Insurance or Bond

Limit of Liability or Bond Amount (\$0.00)

PAGE 17

§ 8.1 For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain the insurance required by the Article and as set forth in Article 11 of the AIA Document 201-2007. The Construction Manager shall require that each Subcontractor procure and maintain, at its own cost and expense, the requisite insurance.

§ 8.2 Construction Manager shall provide and maintain during the performance of this Agreement the insurance described below, which insurance shall be placed with a company or companies authorized to do business in the State of Colorado with an A.M. Best's Insurance Report rating at not less than A-/VI.

§ 8.3 Prior to commencement of Work, the Construction Manager shall furnish and deliver to the Owner proof that the following insurance shall be in force and effect for the duration of the Project. All Certificates of Insurance relating to Broad Form General Liability, Automobile Liability and Excess Liability, shall list Owner as Additional project-specific insured. Additional Insured Endorsements will be provided to Owner by Construction Manager's Insurance Company with other Certificate of Insurance.

§ 8.4 Standard Form Commercial General Liability and Property Damage insurance (as provided on an ISO CG 00 01 form) that includes coverage for (a) Claims for bodily injury, including death, and property damage; and (b) contractual liability on an occurrence basis and shall include fire, explosion, collapse, underground hazard and product/completed operations coverages. Minimum limits: General Aggregate \$2,000,000; Products/Completed Operations Aggregate \$2,000,000; Personal and Advertising Injury \$1,000,000; Each Occurrence \$2,000,000.

§ 8.5 Construction Manager's workers compensation insurance, at statutory limits, as required by Colorado law, covering all employees working on the site, and Employer's Liability Insurance with the following minimum limits: Each Accident \$500,000; Each Occupational Disease \$500,000; Occupational Disease Aggregate \$500,000.

...

§ 8.6 Automobile Liability insurance, covering the use, operation and maintenance of any automobiles, trucks, trailers or other vehicle owned, hired, or non-owned by the Construction Manager providing bodily injury, including death, and property damage coverage. Minimum limits of liability provided by this coverage shall be a Combined Single Limit of \$1,000,000.

...

§ 8.7 Excess Liability Insurance with a minimum limit of \$5,000,000 for each occurrence and aggregate of \$10,000,000.

...

§ 8.8 Standard, all risk of loss Builder's Risk completed value insurance. The amount of the standard deductible under the Builder's Risk Policy shall not exceed \$10,000.00 and the amount of the deductible for flood and water damage shall not exceed \$25,000.00. Notwithstanding the foregoing, the Owner recognizes and agrees that, if the Project is located in a flood zone, the deductible may be higher. In such case, the Contractor shall notify the Owner of the amount of the deductible. The Builder's Risk Insurance shall be carried by the Construction Manager at 100% of the Contract amount, totaling the GMP.

...

§ 8.9 Professional Liability Insurance (errors and Omissions), covering any design services provided under this Agreement by design/build subcontractors or suppliers, including contractual liability insurance against the liability assumed in this Agreement, as is acceptable to and approved by the Owner. Such insurance shall have a minimum policy limits of \$1,000,000 in the aggregate and \$1,000,000 per claim and a maximum deductible of \$25,000 (all deductibles to be paid by Construction Manager and/or design/build subcontractor). The insurance provided must be primary to any insurance coverage carried by Owner.

...

§ 8.10 Worker's Compensation insurance as required by Colorado law during the term of this Agreement, covering all persons working on the Project.

...

§ 8.11 The full aggregate liability policy limits required above shall be available with respect to the Construction Manager's obligations hereunder, and the Construction Manager shall obtain a location specific aggregate limited endorsement confirming such coverages as to Owner and additional insureds. The Construction Manager agrees to notify Owner and additional insureds of any substantial claims, paid or resolved, applied against the aggregate of any of the required insurance policies.

PAGE 18

§ 8.12 All insurance provided by the Construction Manager hereunder shall be primary to any insurance policies held by the Owner and additional insureds. The Construction Manager waives subrogation as to the Owner and its agents, representatives, affiliates, additional insureds, and assigns on all policies carried by the Construction Manager. If the words "endeavor to" appear in the portion of the certificate addressing cancellation, those words shall be stricken from the certificate by the agent(s) completing the certificate.

...

§ 8.13 All insurance shall include a provision prohibiting cancellation, termination or alteration (so as to affect the intent of this Agreement) without thirty (30) days' prior notice by certified mail to the Owner. In the event of threatened cancellation for nonpayment or nonrenewal, the Owner may pay the same on behalf of the Construction Manager, at the Owner's discretion, and deduct the same from any amount of payment due to the Construction Manager hereunder.

...

§ 8.14 Payments for services provided will be withheld from Construction Manager until acceptable Certificates of Insurance and Additional Insured Endorsements are received by Owner.

...

§ 8.15 No Work will be conducted on the Project site until satisfactory evidence has been submitted that the Construction Manager has insurance that complies with the specific insurance and indemnity requirements listed in the Contract Documents. Construction Manager is also responsible to verify that any design/build subcontractors (any subcontractor providing engineered drawings for review and approval), including but not limited to joist manufacturers, fire alarm subcontractors, fire sprinkler subcontractors, security subcontractors, landscape irrigation engineers, and precast concrete subcontractors, carry the following Professional Errors and Omissions Insurance: Professional Liability (Errors and Omissions), covering the services provided under this Agreement, including contractual liability insurance against the liability assumed in the Agreement, as is acceptable to and approved by Owner. The insurance provided must be primary to any insurance coverage carried by Owner.

...

§ 8.16 The Construction Manager shall maintain a performance bond and separate labor and material payment bond, which shall (a) be executed by a corporate surety licensed to do business in the State, (b) be in customary form, (c) be in the amount payable to Construction Manager hereunder or to such subcontractor pursuant to its contract with the Construction Manager and (d) be payable to the Owner. A copy of each such bond and all modifications thereto shall be furnished to the Owner.

...

8.17 Absent written consent of Owner, insurance costs shall be as follows: (a) for comprehensive general liability insurance, 1.15% of the Cost of the Work; (b) for builder's risk insurance, .20% of the Cost of the Work; and (c) for performance and payment bonds, .76% of the Cost of the Work.

...

☒ Litigation in a court of competent jurisdiction

N/A

PAGE 19

§ 10.2.2 If the Construction Manager terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager under Section 14.1.3 of A201–2007 shall not exceed the amount the Construction Manager would otherwise have received under Sections 10.1.2 and 10.1.3 above, except that the Construction Manager's Fee shall be calculated as if the Work had been fully completed by the Construction Manager, utilizing as necessary a reasonable estimate of the Cost of the Work for Work not actually completed above.

PAGE 20

§ 11.3 Governing Law and Venue

...

§ 11.5.1 Attorney's Fees: If legal proceedings are hereafter brought to enforce any of the provisions of the Agreement, including an action for specific performance and/or damages, the prevailing party, to the extent permitted by law, shall be entitled to recover the costs of such proceedings, including reasonable attorney's fees and reasonable expert witness fees.

...

§ 11.5.2 One hundred percent (100%) of the project/value engineering savings shall accrue to the Owner.

...

§ 11.5.3 The Owner has retained Beau LaCouture as the Owner's Representative. The Construction Manager shall fully cooperate with the Owner and the Owner's Representative.

...

§ 11.5.4 The Construction Manager shall:

1. Prepare and update a consolidated project schedule on a weekly basis until Substantial Completion and provide copies to the Owner, the Owner's Representative and the Architect as soon as the schedule is prepared.
2. Support value-engineering efforts to reduce costs and to identify reasonable equivalent materials and supplies.
3. Support Owner in meeting requirements imposed upon the Owner for financing.
4. Conduct weekly construction meetings, until Substantial Completion, with all Subcontractors and any other necessary Project participants and endeavor to include the Owner, Architect and Owner's Representative and thereafter develop and distribute minutes of all such meetings.
5. If requested by Owner's Representative, participate in Project meetings conducted by the Owner's Representative.

...

§ 11.5.5 Nothing herein shall be construed as a waiver of the limitations on damages or any of the privileges, immunities or defenses provided to, or enjoyed by, Owner under common law or pursuant to statute, including but

not limited to the Colorado Governmental Immunity Act, §§ 24-10-101 et seq., C.R.S., as from time to time amended.

§ 11.5.6 Construction Manager will cooperate with other contractors, if any, to ensure harmonious working relationships.

PAGE 21

§ 11.5.7 Construction Manager shall leave the site in a reasonably neat, clean, orderly and safe condition at the end of each day during construction of the Work.

§ 11.5.8 Construction Manager shall procure and maintain and cause its Subcontractors to procure and maintain insurance described in this document.

§ 11.5.9 The Construction Manager shall maintain and accurate set of as-built drawings at the site. At the completion of the Work, the Construction Manager shall certify by signing on them that each of the as-built drawings and specifications are complete and accurate. Not later than thirty (30) days after Substantial Completion of the Work and prior to application for Final Payment, and as a condition to its approval by the Architect and Owner, the Construction Manager shall transfer the job site as-built drawings, arranged in proper order, indexed and certified as accurate to the Architect for transmittal to the Owner. The Construction Manager shall not be responsible for transferring to the as-built documents any addenda, clarifications or changes documented by the Architect and its consultants.

§ 11.5.10 Any purchased materials remaining after completion of the subject portion of the Work (such as, for example, extra paint, wall coverings or carpet) shall be properly stored and provided by Construction Manager to Owner for use in subsequent repairs. Materials should be labeled, sealed, boxed and protected as appropriate to ensure the materials remain in good condition.

§ 11.5.11 All Work performed by Construction Manager, or any Subcontractor or person performing work on its behalf, shall be guaranteed against defective workmanship and materials for a period of two (2) years from the date of Substantial Completion, provided that such two-year period shall not begin with respect to any portion of the Work that is not completed on the date of Substantial Completion, but shall begin when the item is subsequently completed and Owner provides written notice of such completion.

§ 11.5.12 If requested by the Owner, the Construction Manager will furnish Owner with sworn Construction Manager's statements, Construction Manager's affidavits and partial and final waivers of lien, in such form and content as Owner may require, in order to establish that the cost of all labor, services and materials furnished in connection with the Owner's Work has been paid in full and to keep the premises free from all liens and claims.

...

§ 11.5.13 Construction Manager and Owner acknowledge that they or their employees may, in the performance of the Agreement, come into the possession of proprietary or confidential information owned by or in the possession of the other. Neither party shall use any such information for its own benefit or make such information available to any person, firm, corporation, or other organization, regardless of whether directly or indirectly affiliated with Construction Manager or Owner, unless (i) required by law, (ii) by order of any court or tribunal, (iii) such disclosure is necessary for the assertion of a right, or defense of an assertion of a right, by one party against the other party hereto, or (iv) such information has been acquired from other sources.

...

§ 11.5.14 Construction Manager agrees that no smoking shall be permitted inside the facility.

...

§ 11.5.15 Upon Substantial Completion and for a period of fifteen (15) calendar days thereafter, the Construction Manager shall replace burned out light bulbs at no cost to the Owner. Owner acknowledges that Construction Manager is not responsible to re-lamp usable bulbs in permanent light fixtures.

...

§ 11.5.16 The Construction Manager shall provide notification within 72 hours after becoming aware of the basis of any request for change. The Construction Manager shall develop and submit pricing of proposed changes within seven (7) days after a solution has been provided. The Owner shall provide a written response to the Construction Manager's proposal within ten (10) business days of the Owner's receipt of the Construction Manger's submission.

PAGE 22

§ 11.5.17 The Construction Manager shall include with every Subcontract agreement the following language: "Subcontractor binds itself to Construction Manager and Owner and is obligated to Construction Manager and Owner in the same manner and to the same extent that Construction Manager is bound and obligated to Owner under the AIA Document A133-2009 Agreement executed between Construction Manager and Owner on April 2018 related to the construction of the Johnstown Community Center. All rights which Owner may exercise and enforce against Construction Manager may be exercised and enforced by Owner against Subcontractor. In the event of any dispute between the Owner and Construction Manager, Subcontractor shall be bound by all decisions, directives, and interpretations and rulings of the Owner, including Owner's termination or suspension of Construction Manager."

...

§ 11.5.18 The Construction Manager represents that it (1) has sufficient knowledge and expertise to construct the Work in accordance with all applicable codes and regulations; (2) has reviewed, analyzed, and has current knowledge of the site; (3) has reviewed, analyzed and has found sufficient for construction and completion of the Work the Contract Documents listed in this Agreement; any exceptions to this statement have been specifically identified in this Agreement. The Construction Manager represents and warrants that it can and will complete the Work for the Contract Sum identified in this Agreement, and that no sums additional to the Contract Sum are required for Construction Manager's completion of the Work.

...

§ 11.5.19 The parties agree expressly that the intent of the Contract Documents is to include in the Work to be performed by the Construction Manager all labor, materials and supplies, insurance, tools, equipment, licenses, taxes (exclusive of real estate taxes and Town of Johnstown Use Taxes), transportation, and field surveying and other services and items necessary for the Project to be a complete and workable system as required for the satisfactory performance, execution and final completion of the Work. Matters not expressly included as part of the Work and the Construction Manager's responsibility.

...

§ 11.5.20 Construction Manager hereby waives and releases any and all claims for consequential and/or indirect damages including but not limited to attorney's fee for loss profits, lost opportunities, lost bonding capacity and/or damages to reputation.

...

§ 11.6 Illegal Aliens:

...

§ 11.6.1 Pursuant to Colo. Rev. Stat. 8-17.5-101 et. seq., Owner cannot enter into or renew a public contract for services with a contractor who knowingly employs or contracts with an illegal alien to perform work under the contract or who knowingly contracts with a subcontractor who knowingly employs or contracts with an illegal alien to perform work under the contract.

...

§ 11.6.2 In accordance with the mandatory provisions of Colo. Rev. Stat. 8-17.5-101 et. seq., Construction Manager certifies that it has not knowingly employed or contracted with any illegal alien to perform work under this Agreement, and that Construction Manager will participate in the E-Verify Program or the Department program [as defined in Colo. Rev. Stat. 8-17.5-101(3.3)] in order to confirm the employment eligibility of all employees who are newly hired to perform work under this Agreement. Construction Manager further certifies that it will not enter into a contract with a subcontractor who fails to certify to Construction Manager that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

...

§ 11.6.3 Construction Manager has confirmed the employment eligibility of all employees who are newly hired to perform work under this Agreement through participation in either the E-Verify of the Department Program. Construction Manager shall not use the E-Verify Program or the Department Program to undertake pre-employment screening of job applicants while the Agreement is being performed.

...

If Construction Manager obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Construction Manager shall:

1. Notify the subcontractor and Owner within three (3) days that Construction Manager has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
2. Terminate the subcontract if within three (3) days of receiving actual notice the subcontractor does not stop

employing or contracting with the illegal alien, except the Construction Manager shall not terminate the subcontractor if during

3. such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

...
§ 11.6.4 Construction Manager shall comply with any reasonable request by the Department of Labor and Employment (hereinafter referred to as the "Department") made in the course of an investigation that the Department is undertaking pursuant to C.R.S. 8-17.5-102(5)

PAGE 23

§ 11.6.5 If Construction Manager violates the provisions of this paragraph, Owner may terminate the contract for breach and Construction Manager shall be liable for actual and consequential damages.

...
§ 11.7 Whenever the Agreement references the requirement to obtain the Owner's approval or consent, in any context in the Agreement, such approval or consent must be obtained in writing. The writing requirement referenced herein may be satisfied by email communication properly delivered and received.

...
(List other documents, if any, forming part of the Agreement.)

...
Exhibit A – Clarification Regarding Construction Manager's PreConstruction Services Fee Breakdown

...
Exhibit B1- Construction Manager's Standard Personnel Rates

...
Exhibit B2 – Equipment Rental Plans

...
Exhibit C - - A201-20117 (modified) General Conditions for Construction

EXHIBIT A



Preconstruction Services Fee
 Town of Johnstown Recreation Center
 RFP

Detailed Preconstruction Scope of Services			
001	Preconstruction Services Fee to include the following scope of service	1.00 ls	\$56,250
002	- Review Design Concepts and Provide Constructability Review / Recommendations		Included
003	- Provide Site Use Recommendations		Included
004	- Provide Material and Building System Selection Recommendations		Included
005	- Provide Building Equipment Recommendations		Included
006	- Coordinate Owner Supplied Equipment		Included
007	- Provide Construction Scheduling Recommendations		Included
008	- Provide Life Cycle Costing Analysis		Included
009	- Provide Value Analysis		Included
010	- Provide Labor, Material, and Subcontractor Availability Review		Included
011	- Provide Construction Logistics Plan		Included
012	- Provide Design Development GMP Cost Estimate		Included
013	- Provide GMP Proposal		Included
014	- Provide Preconstruction Activity Schedule (Bar Chart)		Included
015	- Provide Construction Activity Schedule (CPM Set-up)		Included
016	- Review For Inclusion of All Work		Included
017	- Review for Adequately Phased Construction		Included
018	- Identify Long Lead Items and Commodity Shortages		Included
Total Preconstruction Services Fee			\$56,250

Clarifications

- Anticipated duration of preconstruction established at 8 months
- Provide milestone estimates at 100% SD, 50% DD, GMP @ 100% DD, and 100% CD
- If budget increases beyond 5%, or additional scope beyond those items list above is required, additional preconstruction fees may be required.
- Pricing of up to 10% of the construction budget in alternates is included. If additional alternate pricing is required, additional preconstruction fees may be required.

Standard Personnel Rates

For the Year 2018

Construction Phase		
1	Project Manager, Project Superintendent	\$ 114.92 /hr
2	Preconstruction Manager	\$ 114.92 /hr
3	Estimator	\$ 98.07 /hr
4	Assistant Project Manager, Assistant Superintendent	\$ 82.78 /hr
5	Safety Personnel / QA QC Personnel	\$ 82.78 /hr
6	Project Coordinator	\$ 52.42 /hr
7	Carpenter	\$ 59.18 /hr
8	Carpenter Foreman	\$ 73.85 /hr
9	Laborer	\$ 42.33 /hr
10	Laborer Foreman	\$ 52.83 /hr
11	Equipment Operator	\$ 84.93 /hr
12	Surveyor	\$ 73.85 /hr
13	BIM Coordinator	\$ 82.78 /hr

- Labor/ Staff Rates for subsequent years shall have an annual increase of 4%.
- Labor/ Staff Rates are not subject to audit.
- Staff Rates are based on a 2080hr work year.
- Computing systems are not included above. A rate of \$7 per hour will apply.
- Vehicle costs are not included above. Rates vary by staff member.

EXHIBIT B2

2018 Monthly Rates

Job #	Cost Code	Description	Equip ID/Ser #	Quantity On Hand	Active	Inactive	Rate	Amount
		Abrasive Cutoff Chop Saw (Bosch 1365 or other)					200.00	-
		Air Compressor, Hoses (Portable)					285.00	-
		Air Monitor					313.00	-
		Banding Machine					29.00	-
		Bobcat					1,368.00	-
		Bobcat Auger attachment with 700 Series 12",18",24"					460.00	-
		Bobcat Forks					205.00	-
		Bobcat Jackhammer					460.00	-
		Bobcat Smooth bucket					270.00	-
		Bobcat Snow plow					270.00	-
		Bobcat Sweeper					1,128.00	-
		Bobcat Tooth bucket					307.00	-
		Bobcat Trench Compactor					460.00	-
		Brooms					6.00	-
		Caulking gun - Hilti					23.00	-
		Chainsaw					57.00	-
		Chipping hammer Electric (Large Hilti, Bosch or other)					200.00	-
		Concrete Blanket 10'x20'					30.00	-
		Concrete Blanket Cage					200.00	-
		Concrete Core Driller					157.00	-
		Concrete Floor Scabbler					570.00	-
		Concrete Mixer					142.00	-
		Concrete Planer-Hilti DG150 (Large dustless Equipment)					245.00	-
		Concrete Saw - Walk behind					671.00	-
		Concrete Vibrator - high cycle					250.00	-
		Conf Room Furniture					48.00	-
		Connex 20'					114.00	-
		Connex 40'					228.00	-
		Copier					360.00	-
		Cutting Torches & Cart					125.00	-
		Data Vault (monitor/computer/etc)					500.00	-
		Data Vault (monitor/computer/etc)					200.00	-
		Demo Saw					200.00	-
		Drywall Carts					57.00	-
		Dust Evacuation Fans Large - 36" - 48"					85.00	-
		Equipment Fuel Tanks for Pick-up Truck					114.00	-
		Extension Cords					6.00	-
		Extension Ladders					29.00	-
		Fence Post Pounder					6.00	-
		Fence Screen (\$1.00/5 linear feet)					1.00	-
		Firehose (Rolls)					6.00	-
		Floor Buffer					205.00	-
		Floor Machine					205.00	-
		Gang Box					57.00	-
		Generator - 35KW or larger (Towable)					1,565.00	-
		Generator - 5KW (Portable)					485.00	-
		Generator - EB2000 (Portable)					100.00	-
		Generator - EB1000 (Portable)					50.00	-
		Gradall					2,793.00	-
		Gradall 15' Boom					171.00	-
		Gradall Material Bucket (Trash Box)					342.00	-
		Gradall Snow bucket					205.00	-
		Ground Heater Diesel- Allmand					3,990.00	-
		Ground Thaws					5,700.00	-
		Grout Pump					57.00	-
		Hammer Drill - Large (Bulldog or other)					85.00	-
		Heaters - Electric Space					29.00	-
		Horse Troughs					57.00	-
		IngersollRand air compressor - Towable					895.00	-
		Jackhammer Electric - 60lb					313.00	-
		Jersey Barriers - each					29.00	-
		Ladder-4', 6' or 8'					29.00	-
		Leaf Blower					29.00	-
		Mechanics Tools - Socket and Wrenches					57.00	-
		Microwave, Refrig, Coffee Machine					114.00	-
		Miter Saw					57.00	-
		Nail Gun - Air					57.00	-
		Negative Air Machine					1,140.00	-

[illegible]

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Denise Icks , 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 17:09:16 on 04/05/2018 under Order No. 6887867071 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™ - 2009, 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, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)



AIA® Document A201™ – 2007

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

The Town of Johnstown
450 S. Parish Avenue
Johnstown, CO 80534

THE OWNER:

(Name, legal status and address)

Johnstown Community Recreation Center
Weld CR 17 and CR 46 1/2 - NE Intersection
Johnstown, CO 80534

THE ARCHITECT:

(Name, legal status and address)

Chris Kastelic
Perkins + Will
475 Lincoln St.
Denver, CO 80203

TABLE OF ARTICLES

- 1 GENERAL PROVISIONS
- 2 OWNER
- 3 CONTRACTOR
- 4 ARCHITECT
- 5 SUBCONTRACTORS
- 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
- 7 CHANGES IN THE WORK
- 8 TIME
- 9 PAYMENTS AND COMPLETION
- 10 PROTECTION OF PERSONS AND PROPERTY
- 11 INSURANCE AND BONDS
- 12 UNCOVERING AND CORRECTION OF WORK
- 13 MISCELLANEOUS PROVISIONS
- 14 TERMINATION OR SUSPENSION OF THE CONTRACT
- 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. 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.

INDEX

(Topics and numbers in bold are section headings.)

- Acceptance of Nonconforming Work
 - 9.6.6, 9.9.3, 12.3
- Acceptance of Work
 - 9.6.6, 9.8.2, 9.9.3, 9.10.1, 9.10.3, 12.3
- Access to Work
 - 3.16, 6.2.1, 12.1
- Accident Prevention
 - 10
- Acts and Omissions
 - 3.2, 3.3.2, 3.12.8, 3.18, 4.2.3, 8.3.1, 9.5.1, 10.2.5, 10.2.8, 13.4.2, 13.7, 14.1, 15.2
- Addenda
 - 1.1.1, 3.11
- Additional Costs, Claims for
 - 3.7.4, 3.7.5, 6.1.1, 7.3.7.5, 10.3, 15.1.4
- Additional Inspections and Testing
 - 9.4.2, 9.8.3, 12.2.1, 13.5
- Additional Insured
 - 11.1.4
- Additional Time, Claims for
 - 3.2.4, 3.7.4, 3.7.5, 3.10.2, 8.3.2, 15.1.5
- Administration of the Contract
 - 3.1.3, 4.2, 9.4, 9.5
- Advertisement or Invitation to Bid
 - 1.1.1
- Aesthetic Effect
 - 4.2.13
- Allowances
 - 3.8, 7.3.8
- All-risk Insurance
 - 11.3.1, 11.3.1.1
- Applications for Payment
 - 4.2.5, 7.3.9, 9.2, 9.3, 9.4, 9.5.1, 9.6.3, 9.7, 9.10, 11.1.3
- Approvals
 - 2.1.1, 2.2.2, 2.4, 3.1.3, 3.10.2, 3.12.8, 3.12.9, 3.12.10, 4.2.7, 9.3.2, 13.5.1
- Arbitration
 - 8.3.1, 11.3.10, 13.1, 15.3.2, 15.4
- ARCHITECT
 - 4
- Architect, Definition of
 - 4.1.1
- Architect, Extent of Authority
 - 2.4, 3.12.7, 4.1, 4.2, 5.2, 6.3, 7.1.2, 7.3.7, 7.4, 9.2, 9.3.1, 9.4, 9.5, 9.6.3, 9.8, 9.10.1, 9.10.3, 12.1, 12.2.1, 13.5.1, 13.5.2, 14.2.2, 14.2.4, 15.1.3, 15.2.1
- Architect, Limitations of Authority and Responsibility
 - 2.1.1, 3.12.4, 3.12.8, 3.12.10, 4.1.2, 4.2.1, 4.2.2, 4.2.3, 4.2.6, 4.2.7, 4.2.10, 4.2.12, 4.2.13, 5.2.1, 7.4, 9.4.2, 9.5.3, 9.6.4, 15.1.3, 15.2
- Architect's Additional Services and Expenses
 - 2.4, 11.3.1.1, 12.2.1, 13.5.2, 13.5.3, 14.2.4
- Architect's Administration of the Contract
 - 3.1.3, 4.2, 3.7.4, 15.2, 9.4.1, 9.5
- Architect's Approvals
 - 2.4, 3.1.3, 3.5, 3.10.2, 4.2.7
- Architect's Authority to Reject Work
 - 3.5, 4.2.6, 12.1.2, 12.2.1
- Architect's Copyright
 - 1.1.7, 1.5
- Architect's Decisions
 - 3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 4.2.14, 6.3, 7.3.7, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4.1, 9.5, 9.8.4, 9.9.1, 13.5.2, 15.2, 15.3
- Architect's Inspections
 - 3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 13.5
- Architect's Instructions
 - 3.2.4, 3.3.1, 4.2.6, 4.2.7, 13.5.2
- Architect's Interpretations
 - 4.2.11, 4.2.12
- Architect's Project Representative
 - 4.2.10
- Architect's Relationship with Contractor
 - 1.1.2, 1.5, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2, 3.5, 3.7.4, 3.7.5, 3.9.2, 3.9.3, 3.10, 3.11, 3.12, 3.16, 3.18, 4.1.2, 4.1.3, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3.7, 12, 13.4.2, 13.5, 15.2
- Architect's Relationship with Subcontractors
 - 1.1.2, 4.2.3, 4.2.4, 4.2.6, 9.6.3, 9.6.4, 11.3.7
- Architect's Representations
 - 9.4.2, 9.5.1, 9.10.1
- Architect's Site Visits
 - 3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.5
- Asbestos
 - 10.3.1
- Attorneys' Fees
 - 3.18.1, 9.10.2, 10.3.3
- Award of Separate Contracts
 - 6.1.1, 6.1.2
- Award of Subcontracts and Other Contracts for Portions of the Work
 - 5.2
- Basic Definitions
 - 1.1
- Bidding Requirements
 - 1.1.1, 5.2.1, 11.4.1
- Binding Dispute Resolution
 - 9.7, 11.3.9, 11.3.10, 13.1, 15.2.5, 15.2.6.1, 15.3.1, 15.3.2, 15.4.1
- Boiler and Machinery Insurance
 - 11.3.2
- Bonds, Lien
 - 7.3.7.4, 9.10.2, 9.10.3
- Bonds, Performance, and Payment
 - 7.3.7.4, 9.6.7, 9.10.3, 11.3.9, 11.4

Init.

Building Permit
3.7.1
Capitalization
1.3
Certificate of Substantial Completion
9.8.3, 9.8.4, 9.8.5
Certificates for Payment
4.2.1, 4.2.5, 4.2.9, 9.3.3, 9.4, 9.5, 9.6.1, 9.6.6, 9.7,
9.10.1, 9.10.3, 14.1.1.3, 14.2.4, 15.1.3
Certificates of Inspection, Testing or Approval
13.5.4
Certificates of Insurance
9.10.2, 11.1.3
Change Orders
1.1.1, 2.4, 3.4.2, 3.7.4, 3.8.2.3, 3.11, 3.12.8, 4.2.8,
5.2.3, 7.1.2, 7.1.3, 7.2, 7.3.2, 7.3.6, 7.3.9, 7.3.10,
8.3.1, 9.3.1.1, 9.10.3, 10.3.2, 11.3.1.2, 11.3.4, 11.3.9,
12.1.2, 15.1.3
Change Orders, Definition of
7.2.1
CHANGES IN THE WORK
2.2.1, 3.11, 4.2.8, 7, 7.2.1, 7.3.1, 7.4, 8.3.1, 9.3.1.1,
11.3.9
Claims, Definition of
15.1.1
CLAIMS AND DISPUTES
3.2.4, 6.1.1, 6.3, 7.3.9, 9.3.3, 9.10.4, 10.3.3, 15, 15.4
Claims and Timely Assertion of Claims
15.4.1
Claims for Additional Cost
3.2.4, 3.7.4, 6.1.1, 7.3.9, 10.3.2, 15.1.4
Claims for Additional Time
3.2.4, 3.7.4, 6.1.1, 8.3.2, 10.3.2, 15.1.5
Concealed or Unknown Conditions, Claims for
3.7.4
Claims for Damages
3.2.4, 3.18, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3, 11.1.1,
11.3.5, 11.3.7, 14.1.3, 14.2.4, 15.1.6
Claims Subject to Arbitration
15.3.1, 15.4.1
Cleaning Up
3.15, 6.3
Commencement of the Work, Conditions Relating to
2.2.1, 3.2.2, 3.4.1, 3.7.1, 3.10.1, 3.12.6, 5.2.1, 5.2.3,
6.2.2, 8.1.2, 8.2.2, 8.3.1, 11.1, 11.3.1, 11.3.6, 11.4.1,
15.1.4
Commencement of the Work, Definition of
8.1.2
Communications Facilitating Contract
Administration
3.9.1, 4.2.4
Completion, Conditions Relating to
3.4.1, 3.11, 3.15, 4.2.2, 4.2.9, 8.2, 9.4.2, 9.8, 9.9.1,
9.10, 12.2, 13.7, 14.1.2
COMPLETION, PAYMENTS AND
9
Completion, Substantial

4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3,
12.2, 13.7
Compliance with Laws
1.6, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 4.1.1, 9.6.4, 10.2.2,
11.1, 11.3, 13.1, 13.4, 13.5.1, 13.5.2, 13.6, 14.1.1,
14.2.1.3, 15.2.8, 15.4.2, 15.4.3
Concealed or Unknown Conditions
3.7.4, 4.2.8, 8.3.1, 10.3
Conditions of the Contract
1.1.1, 6.1.1, 6.1.4
Consent, Written
3.4.2, 3.7.4, 3.12.8, 3.14.2, 4.1.2, 9.3.2, 9.8.5, 9.9.1,
9.10.2, 9.10.3, 11.3.1, 13.2, 13.4.2, 15.4.4.2
Consolidation or Joinder
15.4.4
CONSTRUCTION BY OWNER OR BY
SEPARATE CONTRACTORS
1.1.4, 6
Construction Change Directive, Definition of
7.3.1
Construction Change Directives
1.1.1, 3.4.2, 3.12.8, 4.2.8, 7.1.1, 7.1.2, 7.1.3, 7.3,
9.3.1.1
Construction Schedules, Contractor's
3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.5.2
Contingent Assignment of Subcontracts
5.4, 14.2.2.2
Continuing Contract Performance
15.1.3
Contract, Definition of
1.1.2
CONTRACT, TERMINATION OR SUSPENSION
OF THE
5.4.1.1, 11.3.9, 14
Contract Administration
3.1.3, 4, 9.4, 9.5
Contract Award and Execution, Conditions Relating
to
3.7.1, 3.10, 5.2, 6.1, 11.1.3, 11.3.6, 11.4.1
Contract Documents, Copies Furnished and Use of
1.5.2, 2.2.5, 5.3
Contract Documents, Definition of
1.1.1
Contract Sum
3.7.4, 3.8, 5.2.3, 7.2, 7.3, 7.4, 9.1, 9.4.2, 9.5.1.4,
9.6.7, 9.7, 10.3.2, 11.3.1, 14.2.4, 14.3.2, 15.1.4,
15.2.5
Contract Sum, Definition of
9.1
Contract Time
3.7.4, 3.7.5, 3.10.2, 5.2.3, 7.2.1.3, 7.3.1, 7.3.5, 7.4,
8.1.1, 8.2.1, 8.3.1, 9.5.1, 9.7, 10.3.2, 12.1.1, 14.3.2,
15.1.5.1, 15.2.5
Contract Time, Definition of
8.1.1
CONTRACTOR
3

Contractor, Definition of
 3.1, 6.1.2
 Contractor's Construction Schedules
 3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.5.2
 Contractor's Employees
 3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3,
 11.1.1, 11.3.7, 14.1, 14.2.1.1
 Contractor's Liability Insurance
 11.1
 Contractor's Relationship with Separate Contractors
 and Owner's Forces
 3.12.5, 3.14.2, 4.2.4, 6, 11.3.7, 12.1.2, 12.2.4
 Contractor's Relationship with Subcontractors
 1.2.2, 3.3.2, 3.18.1, 3.18.2, 5, 9.6.2, 9.6.7, 9.10.2,
 11.3.1.2, 11.3.7, 11.3.8
 Contractor's Relationship with the Architect
 1.1.2, 1.5, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2, 3.5,
 3.7.4, 3.10, 3.11, 3.12, 3.16, 3.18, 4.1.3, 4.2, 5.2,
 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.9, 10.2.6,
 10.3, 11.3.7, 12, 13.5, 15.1.2, 15.2.1
 Contractor's Representations
 3.2.1, 3.2.2, 3.5, 3.12.6, 6.2.2, 8.2.1, 9.3.3, 9.8.2
 Contractor's Responsibility for Those Performing the
 Work
 3.3.2, 3.18, 5.3, 6.1.3, 6.2, 9.5.1, 10.2.8
 Contractor's Review of Contract Documents
 3.2
 Contractor's Right to Stop the Work
 9.7
 Contractor's Right to Terminate the Contract
 14.1, 15.1.6
 Contractor's Submittals
 3.10, 3.11, 3.12.4, 4.2.7, 5.2.1, 5.2.3, 9.2, 9.3, 9.8.2,
 9.8.3, 9.9.1, 9.10.2, 9.10.3, 11.1.3, 11.4.2
 Contractor's Superintendent
 3.9, 10.2.6
 Contractor's Supervision and Construction
 Procedures
 1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4,
 7.1.3, 7.3.5, 7.3.7, 8.2, 10, 12, 14, 15.1.3
 Contractual Liability Insurance
 11.1.1.8, 11.2
 Coordination and Correlation
 1.2, 3.2.1, 3.3.1, 3.10, 3.12.6, 6.1.3, 6.2.1
 Copies Furnished of Drawings and Specifications
 1.5, 2.2.5, 3.11
 Copyrights
 1.5, 3.17
 Correction of Work
 2.3, 2.4, 3.7.3, 9.4.2, 9.8.2, 9.8.3, 9.9.1, 12.1.2, 12.2
 Correlation and Intent of the Contract Documents
 1.2
 Cost, Definition of
 7.3.7
 Costs
 2.4, 3.2.4, 3.7.3, 3.8.2, 3.15.2, 5.4.2, 6.1.1, 6.2.3,
 7.3.3.3, 7.3.7, 7.3.8, 7.3.9, 9.10.2, 10.3.2, 10.3.6,
 11.3, 12.1.2, 12.2.1, 12.2.4, 13.5, 14
 Cutting and Patching
 3.14, 6.2.5
 Damage to Construction of Owner or Separate
 Contractors
 3.14.2, 6.2.4, 10.2.1.2, 10.2.5, 10.4, 11.1.1, 11.3,
 12.2.4
 Damage to the Work
 3.14.2, 9.9.1, 10.2.1.2, 10.2.5, 10.4, 11.3.1, 12.2.4
 Damages, Claims for
 3.2.4, 3.18, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3, 11.1.1,
 11.3.5, 11.3.7, 14.1.3, 14.2.4, 15.1.6
 Damages for Delay
 6.1.1, 8.3.3, 9.5.1.6, 9.7, 10.3.2
 Date of Commencement of the Work, Definition of
 8.1.2
 Date of Substantial Completion, Definition of
 8.1.3
 Day, Definition of
 8.1.4
 Decisions of the Architect
 3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 15.2, 6.3,
 7.3.7, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4, 9.5.1, 9.8.4, 9.9.1,
 13.5.2, 14.2.2, 14.2.4, 15.1, 15.2
 Decisions to Withhold Certification
 9.4.1, 9.5, 9.7, 14.1.1.3
 Defective or Nonconforming Work, Acceptance,
 Rejection and Correction of
 2.3, 2.4, 3.5, 4.2.6, 6.2.5, 9.5.1, 9.5.2, 9.6.6, 9.8.2,
 9.9.3, 9.10.4, 12.2.1
 Definitions
 1.1, 2.1.1, 3.1.1, 3.5, 3.12.1, 3.12.2, 3.12.3, 4.1.1,
 15.1.1, 5.1, 6.1.2, 7.2.1, 7.3.1, 8.1, 9.1, 9.8.1
 Delays and Extensions of Time
 3.2, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, 8.3, 9.5.1, 9.7,
 10.3.2, 10.4, 14.3.2, 15.1.5, 15.2.5
 Disputes
 6.3, 7.3.9, 15.1, 15.2
 Documents and Samples at the Site
 3.11
 Drawings, Definition of
 1.1.5
 Drawings and Specifications, Use and Ownership of
 3.11
 Effective Date of Insurance
 8.2.2, 11.1.2
 Emergencies
 10.4, 14.1.1.2, 15.1.4
 Employees, Contractor's
 3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2,
 10.3.3, 11.1.1, 11.3.7, 14.1, 14.2.1.1
 Equipment, Labor, Materials or
 1.1.3, 1.1.6, 3.4, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,
 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.7, 9.3.2, 9.3.3, 9.5.1.3,
 9.10.2, 10.2.1, 10.2.4, 14.2.1.1, 14.2.1.2

Execution and Progress of the Work
 1.1.3, 1.2.1, 1.2.2, 2.2.3, 2.2.5, 3.1, 3.3.1, 3.4.1, 3.5,
 3.7.1, 3.10.1, 3.12, 3.14, 4.2, 6.2.2, 7.1.3, 7.3.5, 8.2,
 9.5.1, 9.9.1, 10.2, 10.3, 12.2, 14.2, 14.3.1, 15.1.3
 Extensions of Time
 3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3, 7.4, 9.5.1, 9.7, 10.3.2,
 10.4, 14.3, 15.1.5, 15.2.5
 Failure of Payment
 9.5.1.3, 9.7, 9.10.2, 13.6, 14.1.1.3, 14.2.1.2
 Faulty Work
 (See Defective or Nonconforming Work)
 Final Completion and Final Payment
 4.2.1, 4.2.9, 9.8.2, 9.10, 11.1.2, 11.1.3, 11.3.1, 11.3.5,
 12.3, 14.2.4, 14.4.3
 Financial Arrangements, Owner's
 2.2.1, 13.2.2, 14.1.1.4
 Fire and Extended Coverage Insurance
 11.3.1.1
GENERAL PROVISIONS
1
 Governing Law
 13.1
 Guarantees (See Warranty)
 Hazardous Materials
 10.2.4, 10.3
 Identification of Subcontractors and Suppliers
 5.2.1
 Indemnification
 3.17, 3.18, 9.10.2, 10.3.3, 10.3.5, 10.3.6, 11.3.1.2,
 11.3.7
 Information and Services Required of the Owner
 2.1.2, 2.2, 3.2.2, 3.12.4, 3.12.10, 6.1.3, 6.1.4, 6.2.5,
 9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.3.3, 11.2, 11.4, 13.5.1,
 13.5.2, 14.1.1.4, 14.1.4, 15.1.3
 Initial Decision
 15.2
 Initial Decision Maker, Definition of
 1.1.8
 Initial Decision Maker, Decisions
 14.2.2, 14.2.4, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5
 Initial Decision Maker, Extent of Authority
 14.2.2, 14.2.4, 15.1.3, 15.2.1, 15.2.2, 15.2.3, 15.2.4,
 15.2.5
 Injury or Damage to Person or Property
 10.2.8, 10.4
 Inspections
 3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3,
 9.9.2, 9.10.1, 12.2.1, 13.5
 Instructions to Bidders
 1.1.1
 Instructions to the Contractor
 3.2.4, 3.3.1, 3.8.1, 5.2.1, 7, 8.2.2, 12, 13.5.2
 Instruments of Service, Definition of
 1.1.7
 Insurance
 3.18.1, 6.1.1, 7.3.7, 9.3.2, 9.8.4, 9.9.1, 9.10.2, 11
 Insurance, Boiler and Machinery

11.3.2
 Insurance, Contractor's Liability
 11.1
 Insurance, Effective Date of
 8.2.2, 11.1.2
 Insurance, Loss of Use
 11.3.3
 Insurance, Owner's Liability
 11.2
 Insurance, Property
 10.2.5, 11.3
 Insurance, Stored Materials
 9.3.2
INSURANCE AND BONDS
11
 Insurance Companies, Consent to Partial Occupancy
 9.9.1
 Intent of the Contract Documents
 1.2.1, 4.2.7, 4.2.12, 4.2.13, 7.4
 Interest
 13.6
 Interpretation
 1.2.3, 1.4, 4.1.1, 5.1, 6.1.2, 15.1.1
 Interpretations, Written
 4.2.11, 4.2.12, 15.1.4
 Judgment on Final Award
 15.4.2
 Labor and Materials, Equipment
 1.1.3, 1.1.6, 3.4, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,
 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.7, 9.3.2, 9.3.3, 9.5.1.3,
 9.10.2, 10.2.1, 10.2.4, 14.2.1.1, 14.2.1.2
 Labor Disputes
 8.3.1
 Laws and Regulations
 1.5, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 4.1.1, 9.6.4, 9.9.1,
 10.2.2, 11.1.1, 11.3, 13.1, 13.4, 13.5.1, 13.5.2, 13.6,
 14, 15.2.8, 15.4
 Liens
 2.1.2, 9.3.3, 9.10.2, 9.10.4, 15.2.8
 Limitations, Statutes of
 12.2.5, 13.7, 15.4.1.1
 Limitations of Liability
 2.3, 3.2.2, 3.5, 3.12.10, 3.17, 3.18.1, 4.2.6, 4.2.7,
 4.2.12, 6.2.2, 9.4.2, 9.6.4, 9.6.7, 10.2.5, 10.3.3,
 11.1.2, 11.2, 11.3.7, 12.2.5, 13.4.2
 Limitations of Time
 2.1.2, 2.2, 2.4, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2.7,
 5.2, 5.3, 5.4.1, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3,
 9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 11.1.3, 11.3.1.5,
 11.3.6, 11.3.10, 12.2, 13.5, 13.7, 14, 15
 Loss of Use Insurance
 11.3.3
 Material Suppliers
 1.5, 3.12.1, 4.2.4, 4.2.6, 5.2.1, 9.3, 9.4.2, 9.6, 9.10.5
 Materials, Hazardous
 10.2.4, 10.3
 Materials, Labor, Equipment and

1.1.3, 1.1.6, 1.5.1, 3.4.1, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1, 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.7, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1.2, 10.2.4, 14.2.1.1, 14.2.1.2
Means, Methods, Techniques, Sequences and
Procedures of Construction

3.3.1, 3.12.10, 4.2.2, 4.2.7, 9.4.2

Mechanic's Lien

2.1.2, 15.2.8

Mediation

8.3.1, 10.3.5, 10.3.6, 15.2.1, 15.2.5, 15.2.6, 15.3, 15.4.1

Minor Changes in the Work

1.1.1, 3.12.8, 4.2.8, 7.1, 7.4

MISCELLANEOUS PROVISIONS

13

Modifications, Definition of

1.1.1

Modifications to the Contract

1.1.1, 1.1.2, 3.11, 4.1.2, 4.2.1, 5.2.3, 7, 8.3.1, 9.7, 10.3.2, 11.3.1

Mutual Responsibility

6.2

Nonconforming Work, Acceptance of

9.6.6, 9.9.3, 12.3

Nonconforming Work, Rejection and Correction of
2.3, 2.4, 3.5, 4.2.6, 6.2.4, 9.5.1, 9.8.2, 9.9.3, 9.10.4, 12.2.1

Notice

2.2.1, 2.3, 2.4, 3.2.4, 3.3.1, 3.7.2, 3.12.9, 5.2.1, 9.7, 9.10, 10.2.2, 11.1.3, 12.2.2.1, 13.3, 13.5.1, 13.5.2, 14.1, 14.2, 15.2.8, 15.4.1

Notice, Written

2.3, 2.4, 3.3.1, 3.9.2, 3.12.9, 3.12.10, 5.2.1, 9.7, 9.10, 10.2.2, 10.3, 11.1.3, 11.3.6, 12.2.2.1, 13.3, 14, 15.2.8, 15.4.1

Notice of Claims

3.7.4, 10.2.8, 15.1.2, 15.4

Notice of Testing and Inspections

13.5.1, 13.5.2

Observations, Contractor's

3.2, 3.7.4

Occupancy

2.2.2, 9.6.6, 9.8, 11.3.1.5

Orders, Written

1.1.1, 2.3, 3.9.2, 7, 8.2.2, 11.3.9, 12.1, 12.2.2.1, 13.5.2, 14.3.1

OWNER

2

Owner, Definition of

2.1.1

Owner, Information and Services Required of the

2.1.2, 2.2, 3.2.2, 3.12.10, 6.1.3, 6.1.4, 6.2.5, 9.3.2, 9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.3.3, 11.2, 11.3, 13.5.1, 13.5.2, 14.1.1.4, 14.1.4, 15.1.3

Owner's Authority

1.5, 2.1.1, 2.3, 2.4, 3.4.2, 3.8.1, 3.12.10, 3.14.2, 4.1.2, 4.1.3, 4.2.4, 4.2.9, 5.2.1, 5.2.4, 5.4.1, 6.1, 6.3, 7.2.1,

7.3.1, 8.2.2, 8.3.1, 9.3.1, 9.3.2, 9.5.1, 9.6.4, 9.9.1, 9.10.2, 10.3.2, 11.1.3, 11.3.3, 11.3.10, 12.2.2, 12.3, 13.2.2, 14.3, 14.4, 15.2.7

Owner's Financial Capability

2.2.1, 13.2.2, 14.1.1.4

Owner's Liability Insurance

11.2

Owner's Relationship with Subcontractors

1.1.2, 5.2, 5.3, 5.4, 9.6.4, 9.10.2, 14.2.2

Owner's Right to Carry Out the Work

2.4, 14.2.2

Owner's Right to Clean Up

6.3

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

6.1

Owner's Right to Stop the Work

2.3

Owner's Right to Suspend the Work

14.3

Owner's Right to Terminate the Contract

14.2

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

1.1.1, 1.1.6, 1.1.7, 1.5, 2.2.5, 3.2.2, 3.11, 3.17, 4.2.12, 5.3

Partial Occupancy or Use

9.6.6, 9.9, 11.3.1.5

Patching, Cutting and

3.14, 6.2.5

Patents

3.17

Payment, Applications for

4.2.5, 7.3.9, 9.2, 9.3, 9.4, 9.5, 9.6.3, 9.7, 9.8.5, 9.10.1, 14.2.3, 14.2.4, 14.4.3

Payment, Certificates for

4.2.5, 4.2.9, 9.3.3, 9.4, 9.5, 9.6.1, 9.6.6, 9.7, 9.10.1, 9.10.3, 13.7, 14.1.1.3, 14.2.4

Payment, Failure of

9.5.1.3, 9.7, 9.10.2, 13.6, 14.1.1.3, 14.2.1.2

Payment, Final

4.2.1, 4.2.9, 9.8.2, 9.10, 11.1.2, 11.1.3, 11.4.1, 12.3, 13.7, 14.2.4, 14.4.3

Payment Bond, Performance Bond and

7.3.7.4, 9.6.7, 9.10.3, 11.4

Payments, Progress

9.3, 9.6, 9.8.5, 9.10.3, 13.6, 14.2.3, 15.1.3

PAYMENTS AND COMPLETION

9

Payments to Subcontractors

5.4.2, 9.5.1.3, 9.6.2, 9.6.3, 9.6.4, 9.6.7, 14.2.1.2

PCB

10.3.1

Performance Bond and Payment Bond

7.3.7.4, 9.6.7, 9.10.3, 11.4

Permits, Fees, Notices and Compliance with Laws

2.2.2, 3.7, 3.13, 7.3.7.4, 10.2.2

Init.

AIA Document A201™ – 2007. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. **WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 16:04:11 on 04/05/2018 under Order No. 6887867071 which expires on 12/13/2018, and is not for resale.

User Notes:

(3B9ADA27)

PERSONS AND PROPERTY, PROTECTION OF
 10
 Polychlorinated Biphenyl
 10.3.1
 Product Data, Definition of
 3.12.2
 Product Data and Samples, Shop Drawings
 3.11, 3.12, 4.2.7
 Progress and Completion
 4.2.2, 8.2, 9.8, 9.9.1, 14.1.4, 15.1.3
 Progress Payments
 9.3, 9.6, 9.8.5, 9.10.3, 13.6, 14.2.3, 15.1.3
 Project, Definition of
 1.1.4
 Project Representatives
 4.2.10
 Property Insurance
 10.2.5, 11.3
 PROTECTION OF PERSONS AND PROPERTY
 10
 Regulations and Laws
 1.5, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 4.1.1, 9.6.4, 9.9.1,
 10.2.2, 11.1, 11.4, 13.1, 13.4, 13.5.1, 13.5.2, 13.6, 14,
 15.2.8, 15.4
 Rejection of Work
 3.5, 4.2.6, 12.2.1
 Releases and Waivers of Liens
 9.10.2
 Representations
 3.2.1, 3.5, 3.12.6, 6.2.2, 8.2.1, 9.3.3, 9.4.2, 9.5.1,
 9.8.2, 9.10.1
 Representatives
 2.1.1, 3.1.1, 3.9, 4.1.1, 4.2.1, 4.2.2, 4.2.10, 5.1.1,
 5.1.2, 13.2.1
 Responsibility for Those Performing the Work
 3.3.2, 3.18, 4.2.3, 5.3, 6.1.3, 6.2, 6.3, 9.5.1, 10
 Retainage
 9.3.1, 9.6.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3
 Review of Contract Documents and Field Conditions
 by Contractor
 3.2, 3.12.7, 6.1.3
 Review of Contractor's Submittals by Owner and
 Architect
 3.10.1, 3.10.2, 3.11, 3.12, 4.2, 5.2, 6.1.3, 9.2, 9.8.2
 Review of Shop Drawings, Product Data and
 Samples by Contractor
 3.12
 Rights and Remedies
 1.1.2, 2.3, 2.4, 3.5, 3.7.4, 3.15.2, 4.2.6, 5.3, 5.4, 6.1,
 6.3, 7.3.1, 8.3, 9.5.1, 9.7, 10.2.5, 10.3, 12.2.2, 12.2.4,
 13.4, 14, 15.4
 Royalties, Patents and Copyrights
 3.17
 Rules and Notices for Arbitration
 15.4.1
 Safety of Persons and Property
 10.2, 10.4

Safety Precautions and Programs
 3.3.1, 4.2.2, 4.2.7, 5.3, 10.1, 10.2, 10.4
 Samples, Definition of
 3.12.3
 Samples, Shop Drawings, Product Data and
 3.11, 3.12, 4.2.7
 Samples at the Site, Documents and
 3.11
 Schedule of Values
 9.2, 9.3.1
 Schedules, Construction
 3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.5.2
 Separate Contracts and Contractors
 1.1.4, 3.12.5, 3.14.2, 4.2.4, 4.2.7, 6, 8.3.1, 12.1.2
 Shop Drawings, Definition of
 3.12.1
 Shop Drawings, Product Data and Samples
 3.11, 3.12, 4.2.7
 Site, Use of
 3.13, 6.1.1, 6.2.1
 Site Inspections
 3.2.2, 3.3.3, 3.7.1, 3.7.4, 4.2, 9.4.2, 9.10.1, 13.5
 Site Visits, Architect's
 3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.5
 Special Inspections and Testing
 4.2.6, 12.2.1, 13.5
 Specifications, Definition of
 1.1.6
 Specifications
 1.1.1, 1.1.6, 1.2.2, 1.5, 3.11, 3.12.10, 3.17, 4.2.14
 Statute of Limitations
 13.7, 15.4.1.1
 Stopping the Work
 2.3, 9.7, 10.3, 14.1
 Stored Materials
 6.2.1, 9.3.2, 10.2.1.2, 10.2.4
 Subcontractor, Definition of
 5.1.1
 SUBCONTRACTORS
 5
 Subcontractors, Work by
 1.2.2, 3.3.2, 3.12.1, 4.2.3, 5.2.3, 5.3, 5.4, 9.3.1.2,
 9.6.7
 Subcontractual Relations
 5.3, 5.4, 9.3.1.2, 9.6, 9.10, 10.2.1, 14.1, 14.2.1
 Submittals
 3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 7.3.7, 9.2, 9.3,
 9.8, 9.9.1, 9.10.2, 9.10.3, 11.1.3
 Submittal Schedule
 3.10.2, 3.12.5, 4.2.7
 Subrogation, Waivers of
 6.1.1, 11.3.7
 Substantial Completion
 4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3,
 12.2, 13.7
 Substantial Completion, Definition of
 9.8.1

Substitution of Subcontractors
 5.2.3, 5.2.4
 Substitution of Architect
 4.1.3
 Substitutions of Materials
 3.4.2, 3.5, 7.3.8
 Sub-subcontractor, Definition of
 5.1.2
 Subsurface Conditions
 3.7.4
 Successors and Assigns
 13.2
 Superintendent
 3.9, 10.2.6
 Supervision and Construction Procedures
 1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4,
 7.1.3, 7.3.7, 8.2, 8.3.1, 9.4.2, 10, 12, 14, 15.1.3
 Surety
 5.4.1.2, 9.8.5, 9.10.2, 9.10.3, 14.2.2, 15.2.7
 Surety, Consent of
 9.10.2, 9.10.3
 Surveys
 2.2.3
 Suspension by the Owner for Convenience
 14.3
 Suspension of the Work
 5.4.2, 14.3
 Suspension or Termination of the Contract
 5.4.1.1, 14
 Taxes
 3.6, 3.8.2.1, 7.3.7.4
 Termination by the Contractor
 14.1, 15.1.6
 Termination by the Owner for Cause
 5.4.1.1, 14.2, 15.1.6
 Termination by the Owner for Convenience
 14.4
 Termination of the Architect
 4.1.3
 Termination of the Contractor
 14.2.2
**TERMINATION OR SUSPENSION OF THE
 CONTRACT**
 14
 Tests and Inspections
 3.1.3, 3.3.3, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3, 9.9.2,
 9.10.1, 10.3.2, 11.4.1, 12.2.1, 13.5
TIME
 8
 Time, Delays and Extensions of
 3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, 8.3, 9.5.1, 9.7,
 10.3.2, 10.4, 14.3.2, 15.1.5, 15.2.5
 Time Limits

2.1.2, 2.2, 2.4, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2,
 5.2, 5.3, 5.4, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3,
 9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 11.1.3, 12.2, 13.5,
 13.7, 14, 15.1.2, 15.4
 Time Limits on Claims
 3.7.4, 10.2.8, 13.7, 15.1.2
 Title to Work
 9.3.2, 9.3.3
 Transmission of Data in Digital Form
 1.6
UNCOVERING AND CORRECTION OF WORK
 12
 Uncovering of Work
 12.1
 Unforeseen Conditions, Concealed or Unknown
 3.7.4, 8.3.1, 10.3
 Unit Prices
 7.3.3.2, 7.3.4
 Use of Documents
 1.1.1, 1.5, 2.2.5, 3.12.6, 5.3
 Use of Site
 3.13, 6.1.1, 6.2.1
 Values, Schedule of
 9.2, 9.3.1
 Waiver of Claims by the Architect
 13.4.2
 Waiver of Claims by the Contractor
 9.10.5, 13.4.2, 15.1.6
 Waiver of Claims by the Owner
 9.9.3, 9.10.3, 9.10.4, 12.2.2.1, 13.4.2, 14.2.4, 15.1.6
 Waiver of Consequential Damages
 14.2.4, 15.1.6
 Waiver of Liens
 9.10.2, 9.10.4
 Waivers of Subrogation
 6.1.1, 11.3.7
 Warranty
 3.5, 4.2.9, 9.3.3, 9.8.4, 9.9.1, 9.10.4, 12.2.2, 13.7
 Weather Delays
 15.1.5.2
 Work, Definition of
 1.1.3
 Written Consent
 1.5.2, 3.4.2, 3.7.4, 3.12.8, 3.14.2, 4.1.2, 9.3.2, 9.8.5,
 9.9.1, 9.10.2, 9.10.3, 11.4.1, 13.2, 13.4.2, 15.4.4.2
 Written Interpretations
 4.2.11, 4.2.12
 Written Notice
 2.3, 2.4, 3.3.1, 3.9, 3.12.9, 3.12.10, 5.2.1, 8.2.2, 9.7,
 9.10, 10.2.2, 10.3, 11.1.3, 12.2.2, 12.2.4, 13.3, 14,
 15.4.1
 Written Orders
 1.1.1, 2.3, 3.9, 7, 8.2.2, 12.1, 12.2, 13.5.2, 14.3.1,
 15.1.2

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 BASIC DEFINITIONS

§ 1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents are enumerated in the Agreement (AIA Document A133-2009) 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 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 and certify termination of the Agreement under Section 14.2.2.

§ 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. Where a conflict occurs between or within the Drawings, Specifications or any other standards, the

Contractor shall promptly notify the Architect in writing concerning the conflict, and the Architect shall decide which stipulation provides the best installation. The Contractor shall perform the work according to the direction of the Architect without a demand for additional compensation.

§ 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 will retain all common law, statutory and other reserved rights, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment 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 this 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 material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them 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 material or equipment suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect's consultants.

§ 1.6 TRANSMISSION OF DATA IN DIGITAL FORM

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents.

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 Contractor recognizes and agrees that mechanics lien rights do not apply to this Project.

§ 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 2.2.1 Pursuant to C.R.S. § 24-91-103.6, as may be amended from time to time, the Owner has appropriated the money necessary to fund this Project. No change order or other form of directive shall be issued by the Owner requiring additional compensable work to be performed, which causes the aggregate amount payable under this Agreement to exceed the amount appropriated for the original contract amount, unless the Owner provides written assurance to the Construction Manager that lawful appropriations have been made to cover the cost of the additional work or unless such work is covered under the remedy-granting provisions of this Agreement.

§ 2.2.2 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.

§ 2.2.3 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. The Contractor shall exercise reasonable diligence and critical judgment in the review of such information, reports, surveys, drawings and tests prior to proceeding with any work or activity based upon the same. If Contractor notices errors or inconsistencies in the information provided, Contractor shall notify Owner.

§ 2.2.4 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. The Contractor shall exercise reasonable diligence and critical judgment in the review of such information, reports, surveys, drawings and tests prior to proceeding with any work or activity based upon the same. If Contractor notices errors or inconsistencies in the information provided, Contractor shall notify Owner.

§ 2.2.5 Upon Contractor's request, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.3 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.

§ 2.4 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 deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor 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. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner with interest at the statutory rate.

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. The term "Construction Manager" as used in the Agreement and the terms "Construction Manager/General Contractor" or "CM/GM" shall mean Contractor.

§ 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 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.

§ 3.1.4 The Contractor shall comply with all applicable labor laws in the State of Colorado, including, but not limited to, those addressing employer obligations for publicly funded projects and the employment of undocumented aliens, and shall require the same in any contracts with Subcontractors providing labor for the Project.

§ 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 each portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to each portion of the Work, and shall observe any conditions at the site affecting it. Contractor shall also, before commencing the Work, meet with all significant Subcontractors and together carefully study and review in detail the Contract Documents. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are also for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents. 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. If the Contractor performs any construction activity knowing it involves an error, inconsistency or omission in the Contract Documents without providing notice of such error, inconsistency or omission to the Architect, the Contractor shall assume responsibility for such construction activity and shall bear the costs attributable to any necessary correction.

§ 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 make Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, upon written request of the Owner, Contractor shall correct such failure(s) without adjustment to the Contract Sum. In the event a correction will not make the Owner whole, then the Contractor shall pay such costs and damages to the Owner 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, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and 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 written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed by Owner with the required means, methods, techniques, sequences or procedures without acceptance of written changes proposed by the Contractor, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required 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. The Contractor shall apply for and coordinate all utility services to the Project as required to complete the Work.

§ 3.4.2 Except in the case of minor changes in the Work authorized by the Architect in accordance with Sections 3.12.8 or 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

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. This warranty is not limited by the provisions of § 12.2.

§ 3.6 TAXES

§ 3.6.1 If required by law, 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. The Owner is exempt from Colorado State sales and use taxes on materials and equipment to be incorporated into the Work. Said taxes shall not be included in the Guaranteed Maximum Price or amendments to the same.

§ 3.6.2 Prior to the purchase of any property to be incorporated into the Work, the Contractor shall ensure that the purchaser, including all Contractors and Subcontractors on the Project, apply to the Department of Revenue, State of Colorado, for an exemption (Form DR-0172) to be used for all Work performed and completed under this Contract. All purchases for the Work shall use the exemption from sales tax. Any costs, taxes or fines that are incurred as a result of a failure to comply with the requirements of this § 3.6 shall be paid by the Contractor.

§ 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. The Contractor shall ensure that Subcontractors have and maintain all required licenses.

§ 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 10 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 an equitable adjustment 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 in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed 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.

§ 3.7.6 The Contractor has visited the site of the Project and thoroughly familiarized itself with the local conditions under which the services required hereunder are to be performed, and shall correlate its observations of the same with all of the requirements of the Contract Documents.

§ 3.7.7 The Contractor shall at all times be fully qualified and licensed under all applicable state and local licensing laws. The Contractor shall be responsible for ensuring that each of its Subcontractors are also fully qualified and licensed under all applicable state and local licensing laws.

§ 3.7.8 The requirements of subparagraphs 3.7.2, 3.7.3, and 3.7.4 shall not diminish or limit the Contractor's responsibilities for compliance with all standards and requirements of the Contract Documents.

§ 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;
- .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; and
- .4 Contractor shall promptly notify Owner if an allowance is going to be exceeded with an estimate of the amount by which it will be exceeded in total.

§ 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, at all times, 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 furnish in writing to the Owner through the Architect the name and qualifications of a proposed superintendent. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to the proposed superintendent or (2) that the Architect requires additional time to review. Failure of the Architect to reply 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.

§ 3.9.4 The Contractor's superintendent or an assistant superintendent shall be on site full time and at all times while work is in progress, including, but not limited to, weekends, evenings and nights, until the Project and all punch list items have been completed to the satisfaction of the Architect. No subcontractor shall perform work on the site without the presence of the superintendent or assistant superintendent. Communication given to the superintendent or assistant superintendent shall be as binding as if given to the Contractor.

§ 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work. The schedule shall indicate the start and completion of each of the elements on the schedules. The schedule shall indicate the major dependencies among elements on the schedule. The completion time shall be as specified in the Agreement.

§ 3.10.2 The Contractor shall prepare a submittal schedule, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Architect's approval. The Architect's approval shall not unreasonably be 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, 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 maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect and shall be 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 the way by which 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 requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Owner and Architect in writing 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 written 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. 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 cause such services or certifications to be provided by a properly 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, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, 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. The Contractor

shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

§ 3.12.11 Copies of all Shop Drawings, Product Data, Samples and similar submittals as identified in Section 3.12 shall be preserved in an orderly manner and delivered to the Owner upon Final Completion.

§ 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, and lawful orders of public authorities and the Contract Documents and shall not unreasonably encumber the site with materials or equipment. The Contractor shall take necessary precautions for the safety of all persons at the site and all property at the site and adjacent thereto.

§ 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 and patching shall be restored to the condition existing prior to the cutting, fitting and 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 such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's 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 or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall promptly 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 Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 ACCESS TO WORK

The Contractor shall provide the Owner and Architect 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 such 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 the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

§ 3.18 INDEMNIFICATION

§ 3.18.1 To the fullest extent permitted by law the Contractor shall indemnify, defend 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.

§ 3.18.3 In addition to the obligations stated above, Construction Manager agrees to protect, defend, hold harmless and indemnify Owner and the indemnified parties, identified 3.18.1, from and against any and all claims, actions, liabilities, damages, losses, costs and expenses, including attorneys' fees, arising out of or resulting from Construction Manager's failure to purchase all insurance required in the Agreement and Construction Manager's failure to require and obtain proper insurance coverage from its Subcontractors. The indemnification obligation herein stated shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Construction Manager or any Subcontractor under Workers' or Workmen's Compensation Acts, disability benefit acts, or other employee benefit acts.

§ 3.19 The Contractor hereby represents, promises and warrants that Contractor is financially solvent and possesses sufficient experience, licenses, authority, personnel and working capital to complete the services required hereunder.

ARTICLE 4 ARCHITECT

§ 4.1 GENERAL

§ 4.1.1 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.

§ 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. Consent shall not be unreasonably withheld.

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

§ 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, except as provided in Section 3.3.1.

§ 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 report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) 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 FACILITATING CONTRACT ADMINISTRATION

Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

§ 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 13.5.2 and 13.5.3, whether or not such 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, material and equipment 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, unless otherwise specifically stated by the Architect, 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 authorize 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 duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

§ 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.

§ 4.2.15 Nothing contained in Article 4.2 shall relieve the Contractor of the obligation to comply with the Contract Documents.

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 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 or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. Failure of the Owner or Architect to reply 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 previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 SUBCONTRACTUAL RELATIONS

By appropriate agreement, written where legally required for validity, 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, which the Contractor, by these 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. 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 in writing; 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 such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity.

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 Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

§ 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 other separate contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to the 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.

(Paragraph Deleted)

§ 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 report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report 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, except as to defects not then reasonably discoverable.

§ 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 the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors 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.

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 not involving adjustment in the Contract Sum or extension of the Contract Time may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

§ 7.1.4 Any adjustment to the Contract Sum or Contract Time arising out of any changes in the Work shall be signed in writing by the Owner. If the Contractor believes a change in the Work has been directed for which an adjustment in the Contract Sum or Contract Time is due, and there is not a written directive for such change signed by the Owner, then the Contractor shall, as a condition precedent to the preservation of any claim pertaining to such change, give written notice to the Owner and Architect prior to proceeding with any Work involved in the change (except for emergency conditions endangering life or property, as provided in paragraph 10.3 of the General Conditions). The written notice shall identify (i) the scope and nature of the change in the Work and (ii) the impact said change will have upon the Contract Sum and Contract Time. In the notice, the Contractor shall provide and identify specific cost and impacts, if any, and the specific extent of additional time to perform, if any, sought for adjustment to the Contract Sum and Contract Time by reason of the change. In the alternative, Contractor shall use its best efforts to provide specific maximum estimates of the costs and additional time required as a result of the alleged change. Contractor's failure to give prior written notice shall constitute a waiver of any claims for adjustment to the Contract Sum or Contract Time not otherwise approved in writing by the Owner, it being expressly understood that such prior notice, timely given is a condition precedent to Contractor's claim.

§ 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 7.3.7.

§ 7.3.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 7.3.5 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.

§ 7.3.6 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.

§ 7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and 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 7.3.7 shall be limited to the following:

- .1 Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .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 related to the Work; and
- .5 Additional costs of supervision and field office personnel directly attributable to the change.

The costs shall be limited by and consistent with Exhibits B1 and B2 attached to the Agreement.

§ 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 has authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes will be effected by written order signed by the Architect and shall be binding on the Owner and Contractor.

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.

§ 8.1.5 The date of Final Completion of the Work is the date that the Architect certifies in the Final Certificate for Payment pursuant to Section 9.10.1 that the Work is acceptable under the Contract Documents and the Contract is fully performed.

§ 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, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

§ 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 an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control; or by delay authorized by the Owner pending mediation; or by other causes that the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner 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

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. The Contractor hereby represents, promises, and warrants that the Contract Sum includes all costs consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the results required by the Contract Documents.

§ 9.2 SCHEDULE OF VALUES

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit to the Architect, before the first Application for Payment, a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's 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. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material 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 material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 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 be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work. With each Application for Payment, the Contractor shall submit fully-executed conditional releases from the Contractor and all Subcontractors and suppliers on whose account payment is sought.

§ 9.4 CERTIFICATES FOR PAYMENT

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part 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 comprising the Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that

the quality of the Work is in accordance with the Contract Documents. 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. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. 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 material 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 for labor, materials or equipment with respect to Work for which the Contractor has received payment from the Owner;
- .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;
- .7 repeated failure to carry out the Work in accordance with the Contract Documents; or
- .8 failure to comply with any laws, ordinances, regulations or orders of any public authority governing the performance of the Work, including failure to obtain necessary permits or licenses.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld provided, however, that the Owner may continue to withhold payment if the amount withheld for one or more particular reasons exceeds the amounts payable for work for which (i) there is no reason to withhold payment or (ii) the reason to withhold payment has been removed. Additionally, and notwithstanding any provision of the Agreement to the Contrary, the Owner may refuse to make payment of the full amount recommended by the Architect because:

- a. Claims have been made against the Owner on account of Contractor's performance or furnishing of the Work;
- b. Liens have been filed or recorded in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such liens; or
- c. Other factors entitling Owner to a set-off against the amount recommended, including, but not limited to, Owner's reasonable belief that factors enumerated in § 9.5.1 exist.

If the Owner refuses to make payment of all or any portion of the amount recommended by the Architect, the Owner shall give the Contractor written notice, with a copy to the Architect, stating the reasons for such action. The Owner shall promptly pay the Contractor the amount so withheld, or any adjusted amount agreed upon by the Owner and Contractor, when Contractor corrects to Owner's satisfaction the reasons for the withholding or Owner determines that factors warranting the withholding no longer exist.

§ 9.5.3 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 material or equipment suppliers 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 Architect will reflect such payment on the next Certificate 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 Upon completion of the Work covered by each Application for Payment, and before or contemporaneously with payment of any sums due Contractor, Contractor shall produce and deliver to Owner, full, complete and properly executed releases for the period of time covered by such Application from all persons or entities who have furnished materials or labor, including Contractor, in connection with the Work. Contractor warrants that it will pay all Subcontractors, Sub-subcontractors, materialmen and suppliers any payment due them arising out of this Contract promptly upon payment by Owner.

§ 9.6.5 Contractor payments to material and equipment 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 and 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, shall create any fiduciary liability or tort liability on the part of the Contractor for breach of trust or shall entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 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' written 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 shut-down, 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. Substantial Completion shall mean that all major systems are operational and all safety features are completed. Without limiting the foregoing, the Owner's issuance of a certificate of occupancy for the Work shall be a condition precedent to Substantial Completion unless issuance of a certificate of occupancy is withheld for reasons outside of the Contractor's control. Notwithstanding the foregoing, upon issuance of a

temporary certificate of occupancy, Contractor may request that Owner determine that the Work has reached Substantial Completion and, if Owner so agrees, Owner shall notify the Contractor in writing.

§ 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, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix a reasonable 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 such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such 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 as required under Section 11.3.1.5 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 written 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 and, 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 terms and conditions of 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 and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial 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), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, 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, (6) all guarantees, warranties and certificates, (7) operating and maintenance manuals, (8) identification lists of all materials and equipment, (9) inspection certificates, (10) record documents, and (11) demonstration by the Contractor to the Owner concerning the proper operation and maintenance of all equipment. 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. If such lien 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 such lien, 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 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 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; or
3. terms of special warranties required by the Contract Documents.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor or material 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.

§ 9.10.6 When the Work is complete, the Contractor shall provide one complete set, in hard copy, of Drawings and Specifications upon which is marked in red all modifications made during construction so as to represent the as-built condition of the Project and shall deliver same to the Owner.

§ 9.10.7 On the date of final settlement, as advertised, and after the Owner has verified that no claims have been filed, final payment shall be made in full. Notwithstanding the foregoing or anything contained herein to the contrary, Architect shall not issue the final Certificate for Payment and final payment shall not be made until the time of final settlement shall be established by the Owner and shall thereafter be advertised by two (2) publications of notice, the last of which shall appear at least ten (10) days prior to the time of final settlement as required pursuant to Colo. Rev. Stat. §38-26-107. The Owner shall withhold from all payments to Contractor sufficient funds to insure the payment of all claims filed by any person that has furnished labor, materials, sustenance, or other supplies used or consumed by Contractor or a subcontractor in or about the performance of the Work, or that supplies laborers, rental machinery, tools, or equipment to the extent used in the prosecution of the Work whose claim therefore has not been paid by Contractor or the subcontractor, all in accordance with the provisions of Colo. Rev. Stat. §38-26-107.

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;
- .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 or the Contractor's Subcontractors or Sub-subcontractors; 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 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 owners and users of adjacent sites and utilities.

§ 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, except damage or loss 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, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 10 days after discovery, or such shorter time as may be required by law. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 HAZARDOUS MATERIALS

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. 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 report the condition to the Owner and Architect in writing.

§ 10.3.2 Upon receipt of the Contractor's written 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 such material or substance or who are to perform the task of removal or safe containment of such 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 in the amount of the Contractor's reasonable additional costs of shut-down, 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. The foregoing indemnification agreement shall be limited by and subject to the rights, defenses and limitations upon liability available to the Owner pursuant to Article 11, Section 1 of the Colorado Constitution and the Colorado Governmental Immunity Act, §§24-10-101 *et. seq.*, C.R.S., and nothing herein shall be construed to waive or limit any such rights or defenses. Owner shall not be required to defend, indemnify or hold harmless the Contractor for any acts, omissions or negligence of Contractor, its Subcontractors, Sub-subcontractors or their employees.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for 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 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 indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance 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, to the extent permitted by law, indemnify 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. The Contractor shall not address the media without the Owner's consent.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 CONTRACTOR'S LIABILITY INSURANCE

§ 11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under

the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

§ 11.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents.

§ 11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

§ 11.1.4 The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) the Owner as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

§ 11.2 OWNER'S LIABILITY INSURANCE

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

§ 11.3 PROPERTY INSURANCE

§ 11.3.1 The Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project. Such insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until such time as the Owner has caused said property to be covered on Owner's own property insurance, which is anticipated to occur at the time of Substantial Completion of the Project.

§ 11.3.1.1 Property insurance shall be on an “all-risk” or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect’s and Contractor’s services and expenses required as a result of such insured loss.

§ 11.3.1.2 [Intentionally omitted.]

§ 11.3.1.3 If the property insurance requires deductibles, the Owner shall pay costs not covered because of such deductibles.

§ 11.3.1.4 This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ 11.3.1.5 Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ 11.3.2 [Intentionally omitted.]

(Paragraph Deleted)

§ 11.3.3 LOSS OF USE INSURANCE

The Owner, at the Owner’s option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner’s property due to fire or other hazards, however caused.

§ 11.3.4 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the insurance policy referenced in Article 11.3.3 and the Owner obtained such policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

§ 11.3.5 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, the Owner shall waive all rights in accordance with the terms of Section 11.3.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

§ 11.3.6 Before an exposure to loss may occur, the Owner, upon Contractor’s written request, shall file with the Contractor a copy of each policy that includes insurance coverages required by this Section 11.3. Each policy, if obtained, shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy, if obtained, shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days’ prior written notice has been given to the Contractor.

§ 11.3.7 WAIVERS OF SUBROGATION

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, and (2) the Architect, Architect’s consultants, separate contractors described in Article 6, 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 covered by property insurance obtained pursuant to this Section 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect’s consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of

subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

(Paragraphs Deleted)

§ 11.4 PERFORMANCE BOND AND PAYMENT BOND

§ 11.4.1 The Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising hereunder, including payment to all persons or entities, including but not limited to Subcontractors engaged by or on behalf of the Contractor.

§ 11.4.2 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.

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, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

§ 12.2 CORRECTION OF WORK

§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after 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 two years 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 an 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 written 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 two-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 2.4.

The Contractor shall schedule and attend with the Owner and the Architect an inspection of the Project eleven (11) months after Substantial Completion and again twenty-three (23) months after Substantial Completion. The Owner, Contractor and Architect shall inspect the Project to determine whether any warranty items exist, and shall prepare a list of warranty items for the Contractor to correct. The Contractor shall notify the Owner and Architect upon its

Init.

completion of the warranty work and the Owner and Architect shall perform a follow-up inspection to confirm such completion.

§ 12.2.2.2 The two-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 two-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, whether completed or partially completed, of the Owner or separate contractors 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 two-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.

§ 12.2.6 During the warranty period, the Contractor shall assign a qualified and experienced representative to work directly with the Owner to address, commence and complete work to correct, within fifteen (15) business days notice from either the Owner or the Architect, any and all warranty items identified from time to time by the Owner or the Architect. If the warranty item is not reasonably capable of being corrected within fifteen (15) business days, the Contractor shall promptly notify the Owner and the parties shall thereafter agree to a reasonable date by which the item will be corrected. If the Contractor does not complete the warranty item within fifteen (15) business days of notification by the Owner, or, if an extension is granted, if the Contractor does not complete the warranty item within the time period otherwise agreed upon, Owner, at its discretion, may complete the warranty item and invoice the Contractor for reimbursement of cost incurred. The Owner shall not incur cost or expense for Contractor's completion of punch list or warranty work. Contractor acknowledges that its punch list and warranty work obligations are included within the Contract Sum.

§ 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 AND VENUE

The Contract shall be governed by the laws of the State of Colorado. The parties agree that the venue for any claim arising hereunder shall be in Weld County, Colorado, unless the parties mutually agree to a different location.

§ 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 such 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 such assignment.

§ 13.3 WRITTEN NOTICE

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 13.4 RIGHTS AND REMEDIES

§ 13.4.1 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.

§ 13.4.2 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 there under, except as may be specifically agreed in writing.

§ 13.5 TESTS AND INSPECTIONS

§ 13.5.1 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 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 (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

§ 13.5.2 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 13.5.1, 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 13.5.3, shall be at the Owner's expense.

§ 13.5.3 If such procedures for testing, inspection or approval under Sections 13.5.1 and 13.5.2 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.

§ 13.5.4 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.

§ 13.5.5 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.

§ 13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.6 INTEREST

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as the parties may 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.

§ 13.7 TIME LIMITS ON CLAIMS

The Owner and Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in the Agreement within the time 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 13.7.

§ 13.8 LIQUIDATED DAMAGES

The Contractor shall perform its obligations as expeditiously as is consistent with reasonable professional skill and care and the orderly progress of the Project. The Owner and the Contractor agree that it would be impractical and extremely difficult to estimate the damages, including, but not limited to indirect, incidental, special and consequential damages, which Owner might suffer if the Contractor fails to achieve Substantial Completion within the Contract Time. Owner and Contractor have determined and agree that fair and reasonable compensation for the damages Owner may suffer if Contractor fails to achieve Substantial Completion within the Contract Time is one-thousand dollars (\$1,000.00) per day ("Liquidated Damages"), and Contractor agrees to pay the said amount for each day after the expiration of the Contract Time until such time as the Contractor achieves Substantial Completion. Notwithstanding the foregoing, Liquidated Damages shall not exceed fifty-percent (50%) of Contractor's Fee (Construction Manager's Fee described in Article 5 of the Agreement). Such Liquidated Damages shall be Owner's sole and exclusive remedy, and not as a penalty, for Contractor's failure to achieve Substantial Completion within the Contract Time, but shall not limit other remedies that may otherwise be available for matters unrelated to achieving Substantial Completion within the Contract Time.

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 or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, 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 promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.1.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, 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' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor 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' written 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 for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;

- .3 disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;
- .4 fails to obtain the lawfully-required permits and licenses;
- .5 fails to procure and maintain the insurance coverage required by the Contract Documents; or
- .6 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the above reasons exist, the Owner, upon certification by the Initial Decision Maker that sufficient cause exists to justify such action, 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' written 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 as described in 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 written 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 Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work performed.

§ 14.4.4 In the event of any termination of the Contract, the Contractor agrees to reasonably cooperate and provide any information requested by Owner in connection with completion of the Project. The Contractor further agrees to remove its property from the site, except as otherwise requested by the Owner.

Init.

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, 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.

§ 15.1.2 NOTICE OF CLAIMS

Claims by either the Owner or Contractor must 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 must 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, unless a shorter time is otherwise required by law.

§ 15.1.3 CONTINUING CONTRACT PERFORMANCE

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. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker.

§ 15.1.4 CLAIMS FOR ADDITIONAL COST

If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.5 CLAIMS FOR ADDITIONAL TIME

§ 15.1.5.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided herein 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.

§ 15.1.5.2 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.

§ 15.1.5.3 If the Claim for an increase in the Contract Time is denied, the Contractor shall complete the Work within the Contract Time or be subject to Liquidated Damages, as described below.

§ 15.1.6 MUTUAL WAIVER OF 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, but is not limited to:

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 15.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 INITIAL DECISION

§ 15.2.1 Claims, excluding those arising under Sections 10.3, 10.4, 11.3.9, and 11.3.10, 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 arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Initial Decision Maker with no 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 such 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 an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 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 15.1.6 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 or by the Judicial Arbitrator Group located in Denver, Colorado. 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 for mediation shall be made prior to the

filing of binding dispute resolution proceedings. In the event that the mediation is not concluded within sixty (60) days from the date of filing, unless the parties agree upon a longer period, the moving party may commence binding dispute resolution proceedings consistent with the Agreement.

§ 15.3.3 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.

Additions and Deletions Report for AIA® Document A201™ – 2007

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:04:11 on 04/05/2018.

PAGE 1

The Town of Johnstown
450 S. Parish Avenue
Johnstown, CO 80534

...

Johnstown Community Recreation Center
Weld CR 17 and CR 46 1/2 - NE Intersection
Johnstown, CO 80534

...

Chris Kastelic
Perkins + Will
475 Lincoln St.
Denver, CO 80203

PAGE 9

ARTICLE 1 GENERAL PROVISIONS

...

The Contract Documents are enumerated in the Agreement (AIA Document A133-2009) 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 requirements.

PAGE 10

§ 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. Where a conflict occurs between or within the Drawings, Specifications or any other standards, the Contractor shall promptly notify the Architect in writing concerning the conflict, and the Architect shall

decide which stipulation provides the best installation. The Contractor shall perform the work according to the direction of the Architect without a demand for additional compensation.

...

§ 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. Contractor recognizes and agrees that mechanics lien rights do not apply to this Project.

...

§ 2.2.1 Prior to commencement of the Work, the Contractor 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. Thereafter, the Contractor may only request such evidence if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor. Pursuant to C.R.S. § 24-91-103.6, as may be amended from time to time, the Owner has appropriated the money necessary to fund this Project. No change order or other form of directive shall be issued by the Owner requiring additional compensable work to be performed, which causes the aggregate amount payable under this Agreement to exceed the amount appropriated for the original contract amount, unless the Owner provides written assurance to the Construction Manager that lawful appropriations have been made to cover the cost of the additional work or unless such work is covered under the remedy-granting provisions of this Agreement.

PAGE 11

§ 2.2.3 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. The Contractor shall exercise reasonable diligence and critical judgment in the review of such information, reports, surveys, drawings and tests prior to proceeding with any work or activity based upon the same.

...

If Contractor notices errors or inconsistencies in the information provided, Contractor shall notify Owner.

...

§ 2.2.4 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. The Contractor shall exercise reasonable diligence and critical judgment in the review of such information, reports, surveys, drawings and tests prior to proceeding with any work or activity based upon the same. If Contractor notices errors or inconsistencies in the information provided, Contractor shall notify Owner.

...

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

...

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 deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor 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. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the ~~Owner~~ Owner with interest at the statutory rate.

...

§ 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 term "Construction Manager" as used in the Agreement and the terms "Construction Manager/General Contractor" or "CM/GM" shall mean Contractor.

PAGE 12

§ 3.1.4 The Contractor shall comply with all applicable labor laws in the State of Colorado, including, but not limited to, those addressing employer obligations for publicly funded projects and the employment of undocumented aliens, and shall require the same in any contracts with Subcontractors providing labor for the Project.

...

§ 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 each~~ each portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to ~~that each~~ each portion of the Work, and shall observe any conditions at the site affecting it. Contractor shall also, before commencing the Work, meet with all significant Subcontractors and together carefully study and review in detail the Contract Documents. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are ~~not also~~ for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Documents. 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. -If the Contractor performs any construction activity knowing it involves an error, inconsistency or omission in the Contract Documents without providing notice of such error, inconsistency or omission to the Architect, the Contractor shall assume responsibility for such construction activity and shall bear the costs attributable to any necessary correction.

...

§ 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 make Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, upon written request of the Owner, Contractor shall correct such failure(s) without adjustment to the Contract Sum. In the event a correction will not make the Owner whole, then the Contractor shall pay such costs and damages to the Owner 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. 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, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and 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 written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed by Owner with the required means, methods, techniques, sequences or procedures without acceptance of written changes proposed by the Contractor, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required means, methods, techniques, sequences or procedures.

PAGE 13

§ 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. The Contractor shall apply for and coordinate all utility services to the Project as required to complete the Work.

...

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. This warranty is not limited by the provisions of § 12.2.

...

The § 3.6.1 If required by law, 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. The Owner is exempt from Colorado State sales and use taxes on materials and equipment to be incorporated into the Work. Said taxes shall not be included in the Guaranteed Maximum Price or amendments to the same.

...

§ 3.6.2 Prior to the purchase of any property to be incorporated into the Work, the Contractor shall ensure that the purchaser, including all Contractors and Subcontractors on the Project, apply to the Department of Revenue, State of Colorado, for an exemption (Form DR-0172) to be used for all Work performed and completed under this Contract. All purchases for the Work shall use the exemption from sales tax. Any costs, taxes or fines that are incurred as a result of a failure to comply with the requirements of this § 3.6 shall be paid by the Contractor.

...

§ 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. The Contractor shall ensure that Subcontractors have and maintain all required licenses.

PAGE 14

§ 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 ~~21~~10 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 an equitable adjustment 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 in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15.

...

§ 3.7.6 The Contractor has visited the site of the Project and thoroughly familiarized itself with the local conditions under which the services required hereunder are to be performed, and shall correlate its observations of the same with all of the requirements of the Contract Documents.

...

§ 3.7.7 The Contractor shall at all times be fully qualified and licensed under all applicable state and local licensing laws. The Contractor shall be responsible for ensuring that each of its Subcontractors are also fully qualified and licensed under all applicable state and local licensing laws.

...

§ 3.7.8 The requirements of subparagraphs 3.7.2, 3.7.3, and 3.7.4 shall not diminish or limit the Contractor's responsibilities for compliance with all standards and requirements of the Contract Documents.

- ...
- .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, 3.8.2.2; and

- ...
- 4 Contractor shall promptly notify Owner if an allowance is going to be exceeded with an estimate of the amount by which it will be exceeded in total.

PAGE 15

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who ~~shall~~ shall, at all times, 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.

...

§ 3.9.4 The Contractor's superintendent or an assistant superintendent shall be on site full time and at all times while work is in progress, including, but not limited to, weekends, evenings and nights, until the Project and all punch list items have been completed to the satisfaction of the Architect. No subcontractor shall perform work on the site without the presence of the superintendent or assistant superintendent. Communication given to the superintendent or assistant superintendent shall be as binding as if given to the Contractor.

...

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work. The schedule shall indicate the start and completion of each of the elements on the schedules. The schedule shall indicate the major dependencies among elements on the schedule. The completion time shall be as specified in the Agreement.

PAGE 16

§ 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 requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Owner and Architect in writing 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.

PAGE 17

§ 3.12.11 Copies of all Shop Drawings, Product Data, Samples and similar submittals as identified in Section 3.12 shall be preserved in an orderly manner and delivered to the Owner upon Final Completion.

...

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities and the Contract Documents and shall not unreasonably encumber the site with materials or equipment. The Contractor shall take necessary precautions for the safety of all persons at the site and all property at the site and adjacent thereto.

...

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

PAGE 18

§ 3.18.1 To the fullest extent permitted by law the Contractor shall ~~indemnify~~ indemnify, defend 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.

...
§ 3.18.3 In addition to the obligations stated above, Construction Manager agrees to protect, defend, hold harmless and indemnify Owner and the indemnified parties, identified 3.18.1, from and against any and all claims, actions, liabilities, damages, losses, costs and expenses, including attorneys' fees, arising out of or resulting from Construction Manager's failure to purchase all insurance required in the Agreement and Construction Manager's failure to require and obtain proper insurance coverage from its Subcontractors. The indemnification obligation herein stated shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Construction Manager or any Subcontractor under Workers' or Workmen's Compensation Acts, disability benefit acts, or other employee benefit acts.

...
§ 3.19 The Contractor hereby represents, promises and warrants that Contractor is financially solvent and possesses sufficient experience, licenses, authority, personnel and working capital to complete the services required hereunder.

...
§ 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.~~ Owner. Consent shall not be unreasonably withheld.

PAGE 20

§ 4.2.15 Nothing contained in Article 4.2 shall relieve the Contractor of the obligation to comply with the Contract Documents.

PAGE 21

By appropriate agreement, written where legally required for validity, 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, which the Contractor, by these 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~~ 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.

...

§ 5.4.3 Upon such 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.~~

...

§ 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, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.~~

PAGE 22

§ 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 not involving adjustment in the Contract Sum or extension of the Contract Time may be issued by the Architect alone.

...

§ 7.1.4 Any adjustment to the Contract Sum or Contract Time arising out of any changes in the Work shall be signed in writing by the Owner. If the Contractor believes a change in the Work has been directed for which an adjustment in the Contract Sum or Contract Time is due, and there is not a written directive for such change signed by the Owner, then the Contractor shall, as a condition precedent to the preservation of any claim pertaining to such change, give written notice to the Owner and Architect prior to proceeding with any Work involved in the change (except for emergency conditions endangering life or property, as provided in paragraph 10.3 of the General Conditions). The written notice shall identify (i) the scope and nature of the change in the Work and (ii) the impact said change will have upon the Contract Sum and Contract Time. In the notice, the Contractor shall provide and identify specific cost and impacts, if any, and the specific extent of additional time to perform, if any, sought for adjustment to the Contract Sum and Contract Time by reason of the change. In the alternative, Contractor shall use its best efforts to provide specific maximum estimates of the costs and additional time required as a result of the alleged change. Contractor's failure to give prior written notice shall constitute a waiver of any claims for adjustment to the Contract Sum or Contract Time not otherwise approved in writing by the Owner, it being expressly understood that such prior notice, timely given is a condition precedent to Contractor's claim.

PAGE 23

The costs shall be limited by and consistent with Exhibits B1 and B2 attached to the Agreement.

§ 8.1.5 The date of Final Completion of the Work is the date that the Architect certifies in the Final Certificate for Payment pursuant to Section 9.10.1 that the Work is acceptable under the Contract Documents and the Contract is fully performed.

...

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control; or by delay authorized by the Owner pending mediation and arbitration; mediation; or by other causes that the Architect-Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect-Owner may determine.

PAGE 25

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. The Contractor hereby represents, promises, and warrants that the Contract Sum includes all costs consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the results required by the Contract Documents.

...

§ 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, shall be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work. With each Application for Payment, the Contractor shall submit fully-executed conditional releases from the Contractor and all Subcontractors and suppliers on whose account payment is sought.

PAGE 26

.3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment; equipment with respect to Work for which the Contractor has received payment from the Owner;

...

.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; Documents; or

...

.8 failure to comply with any laws, ordinances, regulations or orders of any public authority governing the performance of the Work, including failure to obtain necessary permits or licenses.

...

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts

previously withheld. withheld provided, however, that the Owner may continue to withhold payment if the amount withheld for one or more particular reasons exceeds the amounts payable for work for which (i) there is no reason to withhold payment or (ii) the reason to withhold payment has been removed. Additionally, and notwithstanding any provision of the Agreement to the Contrary, the Owner may refuse to make payment of the full amount recommended by the Architect because:

...

a. Claims have been made against the Owner on account of Contractor's performance or furnishing of the Work;

...

b. Liens have been filed or recorded in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such liens; or

...

c. Other factors entitling Owner to a set-off against the amount recommended, including, but not limited to, Owner's reasonable belief that factors enumerated in § 9.5.1 exist.

...

If the Owner refuses to make payment of all or any portion of the amount recommended by the Architect, the Owner shall give the Contractor written notice, with a copy to the Architect, stating the reasons for such action. The Owner shall promptly pay the Contractor the amount so withheld, or any adjusted amount agreed upon by the Owner and Contractor, when Contractor corrects to Owner's satisfaction the reasons for the withholding or Owner determines that factors warranting the withholding no longer exist.

PAGE 27

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and material and equipment 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 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, except as may otherwise be required by law. Upon completion of the Work covered by each Application for Payment, and before or contemporaneously with payment of any sums due Contractor, Contractor shall produce and deliver to Owner, full, complete and properly executed releases for the period of time covered by such Application from all persons or entities who have furnished materials or labor, including Contractor, in connection with the Work. Contractor warrants that it will pay all Subcontractors, Sub-subcontractors, materialmen and suppliers any payment due them arising out of this Contract promptly upon payment by Owner.

PAGE 28

§ 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. Substantial Completion shall mean that all major systems are operational and all safety features are completed. Without limiting the foregoing, the Owner's issuance of a certificate of occupancy for the Work shall be a condition precedent to Substantial Completion unless issuance of a certificate of occupancy is withheld for reasons outside of the Contractor's control. Notwithstanding the foregoing, upon issuance of a temporary certificate of occupancy, Contractor may request that Owner determine that the Work has reached Substantial Completion and, if Owner so agrees, Owner shall notify the Contractor in writing.

...

§ 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, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix ~~the~~ a reasonable 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 29

§ 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 and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial 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 ~~and~~ (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, 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- Owner~~. (6) all guarantees, warranties and certificates, (7) operating and maintenance manuals, (8) identification lists of all materials and equipment, (9) inspection certificates, (10) record documents, and (11) demonstration by the Contractor to the Owner concerning the proper operation and maintenance of all equipment. 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. If such lien 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 such lien, including all costs and reasonable attorneys' fees.

...

§ 9.10.6 When the Work is complete, the Contractor shall provide one complete set, in hard copy, of Drawings and Specifications upon which is marked in red all modifications made during construction so as to represent the as-built condition of the Project and shall deliver same to the Owner.

...

§ 9.10.7 On the date of final settlement, as advertised, and after the Owner has verified that no claims have been filed, final payment shall be made in full. Notwithstanding the foregoing or anything contained herein to the contrary, Architect shall not issue the final Certificate for Payment and final payment shall not be made until the time of final settlement shall be established by the Owner and shall thereafter be advertised by two (2) publications of notice, the last of which shall appear at least ten (10) days prior to the time of final settlement as required pursuant to Colo. Rev. Stat. §38-26-107. The Owner shall withhold from all payments to Contractor sufficient funds to insure the payment of all claims filed by any person that has furnished labor, materials, sustenance, or other supplies used or consumed by Contractor or a subcontractor in or about the performance of the Work, or that supplies laborers, rental machinery, tools, or equipment to the extent used in the prosecution of the Work whose claim therefore has not been paid by Contractor or the subcontractor, all in accordance with the provisions of Colo. Rev. Stat. §38-26-107.

PAGE 30

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, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery, 10 days after discovery, or such shorter time as may be required by law. The notice shall provide sufficient detail to enable the other party to investigate the matter.

PAGE 31

§ 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. The foregoing indemnification agreement shall be limited by and subject to the rights, defenses and limitations upon liability available to the Owner pursuant to Article 11, Section 1 of the Colorado Constitution and the Colorado Governmental Immunity Act, §§24-10-101 et. seq., C.R.S., and nothing herein shall be construed to waive or limit any such rights or defenses. Owner shall not be required to defend, indemnify or hold harmless the Contractor for any acts, omissions or negligence of Contractor, its Subcontractors, Sub-subcontractors or their employees.

...

§ 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~~ shall, to the extent permitted by law, indemnify the Contractor for all cost and expense thereby incurred.

...

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. The Contractor shall not address the media without the Owner's consent.

PAGE 32

§ 11.1.4 The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) the Owner, the Architect and the Architect's consultants ~~Owner~~ as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

...

§ 11.3.1 ~~Unless otherwise provided, the Owner~~ The Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property ~~This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the~~ Project. Such insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, 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 required by this Section 11.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in such time as the Owner has caused said property

to be covered on Owner's own property insurance, which is anticipated to occur at the time of Substantial Completion of the Project.

PAGE 33

§ 11.3.1.2 If the Owner does not intend to purchase such property insurance required by the Contract and with all of the coverages in the amount described above, the Owner shall so inform the Contractor in writing prior to commencement of the Work. The Contractor may then effect insurance that will protect the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, without so notifying the Contractor in writing, then the Owner shall bear all reasonable costs properly attributable thereto. [Intentionally omitted.]

...

§ 11.3.2 BOILER AND MACHINERY INSURANCE [Intentionally omitted.]

...

The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

...

The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused. however caused.

...

§ 11.3.4 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance insurance policy referenced in Article 11.3.3 and the Owner obtained such policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

...

§ 11.3.6 Before an exposure to loss may occur, the ~~Owner~~ Owner, upon Contractor's written request, shall file with the Contractor a copy of each policy that includes insurance coverages required by this Section 11.3. Each ~~policy~~ policy, if obtained, shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each ~~policy-policy~~ policy, if obtained, shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Contractor.

PAGE 34

§ 11.3.8 A loss insured under the Owner's property insurance 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 11.3.10. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

...

§ 11.3.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

...

§ 11.3.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved in the manner selected by the Owner and Contractor as the method of binding dispute resolution in the Agreement. If the Owner and Contractor have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

...

§ 11.4.1 The Owner shall have the right to require the Contractor to Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract hereunder, including payment to all persons or entities, including but not limited to Subcontractors engaged by or on behalf of the Contractor.

...

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within ~~one year~~ two years 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 an 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 written 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~~ two-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 2.4.

PAGE 35

The Contractor shall schedule and attend with the Owner and the Architect an inspection of the Project eleven (11) months after Substantial Completion and again twenty-three (23) months after Substantial Completion. The Owner, Contractor and Architect shall inspect the Project to determine whether any warranty items exist, and shall prepare a list of warranty items for the Contractor to correct. The Contractor shall notify the Owner and Architect upon its completion of the warranty work and the Owner and Architect shall perform a follow-up inspection to confirm such completion.

...

§ 12.2.2.2 The ~~one year~~ two-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~~ two-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

...

§ 12.2.5 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~~ two-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.

...

§ 12.2.6 During the warranty period, the Contractor shall assign a qualified and experienced representative to work directly with the Owner to address, commence and complete work to correct, within fifteen (15) business days notice from either the Owner or the Architect, any and all warranty items identified from time to time by the Owner or the Architect. If the warranty item is not reasonably capable of being corrected within fifteen (15) business days, the Contractor shall promptly notify the Owner and the parties shall thereafter agree to a reasonable date by which the item will be corrected. If the Contractor does not complete the warranty item within fifteen (15) business days of notification by the Owner, or, if an extension is granted, if the Contractor does not complete the warranty item within the time period otherwise agreed upon, Owner, at its discretion, may complete the warranty item and invoice the Contractor for reimbursement of cost incurred. The Owner shall not incur cost or expense for Contractor's completion of punch list or warranty work. Contractor acknowledges that its punch list and warranty work obligations are included within the Contract Sum.

§ 13.1 GOVERNING LAW AND VENUE

...

The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4. laws of the State of Colorado. The parties agree that the venue for any claim arising hereunder shall be in Weld County, Colorado, unless the parties mutually agree to a different location.

PAGE 37

§ 13.8 LIQUIDATED DAMAGES

...

The Contractor shall perform its obligations as expeditiously as is consistent with reasonable professional skill and care and the orderly progress of the Project. The Owner and the Contractor agree that it would be impractical and extremely difficult to estimate the damages, including, but not limited to indirect, incidental, special and consequential damages, which Owner might suffer if the Contractor fails to achieve Substantial Completion within the Contract Time. Owner and Contractor have determined and agree that fair and reasonable compensation for the damages Owner may suffer if Contractor fails to achieve Substantial Completion within the Contract Time is one-thousand dollars (\$1,000.00) per day ("Liquidated Damages"), and Contractor agrees to pay the said amount for each day after the expiration of the Contract Time until such time as the Contractor achieves Substantial Completion. Notwithstanding the foregoing, Liquidated Damages shall not exceed fifty-percent (50%) of

PAGE 38

■■■

■■■

■■■

三三三

■■■

PAGE 39



● ● ●

(3B9ADA27)

...

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver ~~includes~~includes, but is not limited to:

...

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 15.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

PAGE 41

§ 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.~~ Agreement or by the Judicial Arbitrator Group located in Denver, Colorado. 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 for mediation shall be made prior to 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 proceedings.~~ In the event that the mediation is not concluded within sixty (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. the parties agree upon a longer period, the moving party may commence binding dispute resolution proceedings consistent with the Agreement.

PAGE Error! Bookmark not defined.

§ 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. 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 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).

...

§ 15.4.4.2 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.

...

§ 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 the Owner and Contractor under this Agreement.

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Denise Icks , 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 16:04:11 on 04/05/2018 under Order No. 6887867071 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ - 2007, General Conditions of the Contract for Construction, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

NOTES

DATE: 04/16/18

AGENDA ITEM 10A

**ADMINISTER
OATH
OF
OFFICE**

TOWN COUNCIL AGENDA COMMUNICATION

AGENDA DATE: April 16, 2018

ITEM NUMBER: 10A

SUBJECT: Administer Oath of Office – Newly Elected Council Members

ACTION PROPOSED: Administer Oath of Office to Newly Elected Council Members

PRESENTED BY: Town Clerk

AGENDA ITEM DESCRIPTION: Section 2.4 C., (Term of Office; Time of Taking Office; Oath) of the Town Charter provides, in part, for the following:

“Before taking office, the Mayor and each Council member shall take and file with the Town Clerk an oath or affirmation to support the United States Constitution, the Colorado Constitution, the Charter, ordinances and codes of the Town and to faithfully perform the duties of the office.”

The Town Clerk will be administering the following oath of office to the newly elected council members:

“I (name of individual), do solemnly swear by the ever living God, that I will support the Constitution of the United States of America and of the State of Colorado, the Charter, ordinances and codes of the Town of Johnstown, and faithfully perform the duties of the office of (name of office) upon which I am about to enter.”

***Note:** An affirmation is also available, if desired.


LEGAL ADVICE: N/A

FINANCIAL ADVICE: N/A

RECOMMENDED ACTION: Administer Oath of Office to Newly Elected Council Members

SUGGESTED MOTION: N/A

Reviewed:


Town Manager

AGENDA ITEM 10B

**ROLL
CALL**

TOWN BOARD AGENDA COMMUNICATION

AGENDA DATE: April 16, 2018

ITEM NUMBER: 10B

SUBJECT: Roll Call

ACTION PROPOSED: N/A

PRESENTED BY: Town Clerk

AGENDA ITEM DESCRIPTION: The Town Clerk will read the name of the Mayor and each Council member for the record to determine who is present/absent for the meeting.

LEGAL ADVICE: N/A

FINANCIAL ADVICE: N/A

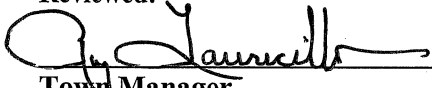
RECOMMENDED ACTION: Acknowledge your presence by stating here, present, etc.

SUGGESTED MOTIONS:

For Approval: N/A

For Denial: N/A

Reviewed:


Town Manager

AGENDA ITEM 10C

**AGENDA
APPROVAL**

TOWN BOARD AGENDA COMMUNICATION

AGENDA DATE: April 16, 2018

ITEM NUMBER: 10C

SUBJECT: Agenda Approval

ACTION PROPOSED: Approve Agenda

PRESENTED BY: Mayor

AGENDA ITEM DESCRIPTION: The Mayor will ask for a motion to approve the agenda as presented. If the agenda is acceptable, a motion will need to be made approving the agenda. Someone will be required to second the motion, and then a vote will be taken.

LEGAL ADVICE: N/A

FINANCIAL ADVICE: N/A

RECOMMENDED ACTION: Approve Agenda

SUGGESTED MOTION:

For Approval: I move to approve the agenda as presented.

For Denial:

Reviewed:


Town Manager

AGENDA ITEM 10D

**RECOGNITION
OF
OUTGOING
COUNCIL MEMBER**

TOWN BOARD AGENDA COMMUNICATION

AGENDA DATE: April 16, 2018

ITEM NUMBER: 10D

SUBJECT: Recognition of Outgoing Council Member

ACTION PROPOSED: N/A

PRESENTED BY: Mayor Scott James

AGENDA ITEM DESCRIPTION: Mayor Scott James will be presenting outgoing Council member Devin Davis with a coat and plaque in recognition for his dedicated service to the Town of Johnstown.

LEGAL ADVICE: N/A

FINANCIAL ADVICE: N/A


RECOMMENDED ACTION: N/A

SUGGESTED MOTIONS:

For Approval: N/A

For Denial: N/A

Reviewed:


Town Manager

AGENDA ITEM 10E

**APPOINTMENT
OF
MAYOR PRO TEM**

TOWN COUNCIL AGENDA COMMUNICATION

AGENDA DATE: April 16, 2018

ITEM NUMBER: 10E

SUBJECT: Appointment of Mayor Pro Tem

ACTION PROPOSED: Appoint Mayor Pro Tem

PRESENTED BY: Town Clerk

AGENDA ITEM DESCRIPTION: Section 2.2 (Mayor, Mayor Pro Tem) of the Town Charter provides for the following:

“By the affirmative vote of a majority of the entire Council, a Council member shall be appointed as Mayor Pro Tem for the term as prescribed by ordinance to perform the responsibilities and duties of the Mayor when the Mayor is absent or is otherwise unable to perform the responsibilities and duties of the Mayor.”

LEGAL ADVICE: N/A

FINANCIAL ADVICE: N/A

RECOMMENDED ACTION: Appoint Mayor Pro Tem

SUGGESTED MOTION:

For Appointment: I move to appoint (name of Council member) Mayor Pro Tem.

Reviewed:


Town Manager

AGENDA ITEM 10F

**APPOINTMENT
OF
TOWN ATTORNEY**

TOWN COUNCIL AGENDA COMMUNICATION

AGENDA DATE: April 16, 2018

ITEM NUMBER: 10F

SUBJECT: Appointment of Town Attorney

ACTION PROPOSED: Reappoint Town Attorney

PRESENTED BY: Mayor

AGENDA ITEM DESCRIPTION: Article 9 (Town Attorney) of the Town Charter states, in part, the following:

“The Town Council, by majority of the entire Council, shall appoint a Town Attorney to serve at the pleasure of the Council”

Avi Rocklin was initially appointed Town Attorney on February 3, 2014.

LEGAL ADVICE: N/A

FINANCIAL ADVICE: N/A

RECOMMENDED ACTION: Appoint Avi Rocklin Town Attorney

SUGGESTED MOTION:

For Appointment: I move to appoint Avi Rocklin Johnstown Town Attorney.

Reviewed:

Town Manager _____

AGENDA ITEM 10G

**APPOINTMENT
OF
MUNICIPAL COURT
JUDGE**

TOWN COUNCIL AGENDA COMMUNICATION

AGENDA DATE: April 16, 2018

ITEM NUMBER: 10G

SUBJECT: Appointment of Municipal Court Judge

ACTION PROPOSED: Reappoint Municipal Court Judge

PRESENTED BY: Mayor and Town Attorney

AGENDA ITEM DESCRIPTION: Article 10 (Municipal Judge) of the Town Charter states, in part, the following:

"The Town Council shall appoint, by majority vote of the entire Council, a presiding municipal judge and such deputy municipal judges as the Council deems necessary. Each municipal judge shall be appointed for a two (2) year term."

Mr. Lezar was initially appointed Municipal Judge on May 6, 2002, and previously served as the Town's substitute Municipal Judge.

LEGAL ADVICE: N/A

FINANCIAL ADVICE: N/A

RECOMMENDED ACTION: Appoint Mr. Mike Lezar Municipal Court Judge

SUGGESTED MOTION:

For Appointment: I move to appoint Mr. Mike Lezar Johnstown Municipal Court Judge.

Reviewed:

Town Manager

