

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

AGREEMENT made as of the 21st day of May in the year 2026
(In words, indicate day, month, and year.)

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

Yellowstone County
217 North 27th Street
Billings, MT 59101

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

Sletten Construction Company
1000 25th Street North
PO Box 2467
Great Falls, MT 59403

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

Yellowstone County Courthouse Renovation
217 North 27th Street
Billings, MT 59101

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

A&E + SMA Design
124 North 29th Street, Suite 100
Billings, MT 59101

The Owner and Construction Manager agree as follows.

ADDITIONS AND DELETIONS:

The author of this document may have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes 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 to or deleted from the original AIA text.

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

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

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

«TBD »

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:

(Provide total and, if known, a line item breakdown.)

TEN MILLION FIVE HUNDRED FIFTY-FIVE THOUSAND SIX HUNDRED FORTY AND NO/100
(\$10,555,640.00)

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

.1 Design phase milestone dates, if any:

NA

.2 Construction commencement date:

Anticipated to be July 1, 2026

.3 Substantial Completion date or dates:

March 30, 2027

.4 Other milestone dates:

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

(Identify any requirements for fast-track scheduling or phased construction.)

Phase 1 of this Project is – Renovation construction for 3rd Floor and 1st Floor.

§ 1.1.7 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere.)

N/A

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:

(List name, address, and other contact information.)

Matt Kessler
Yellowstone County Purchasing
217 North 27th Street
Billings, MT 59101

Shane Swandal
Alec Pinero
Hulteng CCM
6417 Trade Center Ave
Billings, MT 59101

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

(List name, address and other contact information.)

TBD

§ 1.1.10 The Owner shall retain the following consultants and contractors:

(List name, legal status, address, and other contact information.)

.1 Mechanical Engineer:

N/A

.2 Civil Engineer:

N/A

.3 Other, if any:

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

Asbestos Abatement Consultant – Northern Industrial Hygiene
Special Inspections Testing – TBD
Commissioning Services - TBD »

§ 1.1.11 The Architect's representative:
(List name, address, and other contact information.)
Thomas Pertuit
A&E + SMA Design
124 North 29th Street, Suite 100
Billings, MT 59101
406.248.2633

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

Brooke Logan
Sletten Construction Company
1000 25th Street North
Great Falls, Montana 59403
406.761.7920

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

Per RFP submission Dated September 29, 2025

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

NA

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

NA

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

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

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, Bid/Proposal (RFQ and RFP) documents, Construction Manager's proof of payment and performance and payment bonds and proof of insurance, 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 and incorporated herein as if attached to this Agreement or repeated herein. Any modifications of the Contract Documents with respect to scope of the project, contract time or overall budget must be approved by Owner's Board of Commissioners. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern.

§ 2.1.1 The Construction Manager (or GC/CM) has been provided a copy of the Agreement Between Owner and Architect and the General Conditions of the Contract for Construction and any amendments thereto, which together are included in the contract documents. The Construction Manager acknowledges that such documents have been reviewed and understands those references to the duties and responsibilities of the Construction Manager contained therein. The Construction Manager understands and acknowledges that the Owner has decided to utilize an alternative project delivery method for the Project, which it has determined to be based on a General Contractor Construction Manager Contract between the Owner and a Construction Manager.

§ 2.2 Relationship of the Parties

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

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, the Parties acknowledge and agree that the Construction Manager will provide services for the Preconstruction Phase, (which shall run through Bidding Phase) and through the Construction Phase. The Parties agree and acknowledge that the Project may proceed with a phased or sequential bidding process and that Portion of the Project may enter Construction Phase while other portions of the Project remain in the Preconstruction Phase.

§ 2.3.2 For the Construction Phase, the Construction Manager's responsibilities to the Owner shall be as set forth in this Agreement and in AIA Document A201 – 2017 "General Conditions of the Contract for Construction" and any amendments thereto which are incorporated herein by reference (hereinafter collectively referred to as "AIA Document A201"). For the Preconstruction Phase, or in the event that the Preconstruction and Construction Phases proceed concurrently, AIA Document A201, including any amendments thereto, shall apply to the Preconstruction Phase only as specifically provided in this Agreement. The term Contractor as used the AIA Document A201 shall mean the Construction Manager or GC/CM. Any reference to AIA Document A133-2019 in any document applicable to the Project shall mean such AIA document as modified herein. If any provisions of AIA Document A201, including any amendments thereto, are in direct conflict with any provision of this Agreement or of the Owner/Architect Agreement between the Owner and Architect with respect to this Project, the provisions of this Agreement as amended shall control.

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017, including any amendments thereto, referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, 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.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. 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.

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

§ 3.1.3 Additional Pre-Construction Phase Responsibilities

Construction, or any portion of Construction, will not commence until plans and specifications have been submitted to and approved as required by the Owner and by statute and regulation and any state, local, or governing body having jurisdiction over the Project or any portion of it.

§ 3.1.3 Consultation

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

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase. In reviewing the Contract Documents, Construction Manager shall endeavor to detect any errors, omissions, or inconsistencies in the design or other documents which affect the performance or constructability of the Work. Construction Manager shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require. It is recognized that the Construction Manager's review is made in the Construction Manager's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 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 affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

§ 3.1.5 Phased Construction

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

§ 3.1.6 Cost Estimates

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

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

latest approved Project budget, and make recommendations for corrective action and acquire the Owner's approval before proceeding with any contract awards.

§ 3.1.6.3 The Construction Manager and Architect shall compare their estimates at each stage and shall review portions of their estimates that are materially different from one another. Construction Manager and Architect shall determine the cause of the differences, correct any errors and reconcile their estimates. Architect and Construction Manager shall promptly notify Owner in the event they are unable to agree on a reconciliation of the estimates or if the probable construction costs exceed the Owner's construction budget, and the Construction Manager shall make recommendations for corrective action if the estimates or the final bidding and proposals are determined to be out of budget.

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

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

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

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 The Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval. The Construction Manager shall prepare and implement a subcontracting plan which provides for participation for qualified local businesses.

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

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

§ 3.1.12 Procurement

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

§ 3.1.13 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.

§ 3.1.14 Other Preconstruction Services

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

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

Per RFP Submission dated September 29, 2025

The Construction Manager will, in addition to any other services set forth under Paragraph 3.1 provide the following Preconstruction services:

- .1 Consult with, advise, assist, and provide recommendations to the Owner and Architect on all aspects of the planning and design of the Work at construction document phase.

- .2 Provide information, estimates, and participate in decisions regarding construction materials, methods, systems, phasing, and costs to assist in determinations that are aimed at providing the highest quality building within the Owner's budget and schedule.
- .3 Review in progress design documents as supplied by the Architect and provide input and advise on construction feasibility, alternative materials, and availability of materials and equipment; Review completed design documents and suggest modifications to improve completeness and clarity.
- .4 Provide input regarding the current construction market bidding climate, status of key subcontract markets, etc. Recommend division of work to facilitate bidding and award of trade contracts, considering such factors as bidding climate, improving or accelerating construction completion, minimizing trade jurisdictional disputes, and related issues.
- .5 Develop and continuously monitor the Project schedule and recommend adjustments in the design documents or construction bid packaging to ensure completion of the Project in the most expeditious manner possible, while addressing and meeting schedule requirements.
- .6 Prepare construction cost estimates for the Project at appropriate times throughout the design phases of the work; Notify the Owner and Architect immediately if the provided construction cost estimates appear to be exceeding the Owners' budget.
- .7 Attend meetings of the Board of Commissioners, at the Construction Documents, Bidding Phase, Construction Phase or Phases as coordinated with the Owner and Architect. The Construction Manager shall report to the Owner's Board of Commissioners, at the Owner's request, information regarding the Work performed.
- .8 Assist the Architect to the extent requested by the Architect within the areas of responsibility of the Construction Manager in the submission of the Construction Documents to the specific state and local agencies having jurisdiction over the Project, including but not limited to review under §20-6-622, MCA and in securing written approval from those agencies.
- .9 With the assistance of the Owner and the Architect determine the number and nature of the bid packages to be placed for bid, open the bid on behalf of the Owner using a process determined by the Construction Manager and following a review of the bids conducted with the Architect and a representative of the Owner, at the Owner's request, prepare a written bid analysis and recommendation for the award of the bid for presentation to the Owner, along with supporting documentation.
- .10 The Construction Manager with the assistance of the Architect shall prepare the advertisements for bids, as well as the necessary forms, record of bidders, plan deposits, proposals and other bidding and construction documents prior to distribution to prospective bidders. The Construction Manager shall also work with the Architect to ensure that the bid specifications and Construction Documents contain the provisions required by Montana law, including but not limited to prevailing wages (18-2-403 and 18-2-422, MCA; ARM 24.16.9005), resident hiring preference (18-2-403, MCA), nondiscrimination (49-3-207, MCA), provisions required by Montana and federal law for public contracting as well as any laws or regulations imposed by local authorities.

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 When the Architect has fully completed the plans and specifications for the Work and has the necessary governmental and other approvals, and following any ensuing bidding phase, the Construction Manager shall propose, in writing, a guaranteed maximum price (GMP), which shall include, among other items specified in the agreement (1) the sum of all of the awarded contracts for the Work and the Construction Manager's proposed reimbursable costs for any construction items or activities not included in the awarded contracts (Cost of the Work) and (2) the Construction Manager's fee. Such reimbursable costs must be approved by the Owner, and the Owner shall have the right to pay any fixed costs directly where feasible, thereby reducing the overall GMP. If the GMP proposal exceeds the Construction Manager's most recent approved cost estimate relating to any portion of the construction work, at the request of the Owner, the Construction Manager (at no additional cost to the Owner) shall work with the Architect to bring the Project within the approved cost estimate. The Construction Manager's fee will be established by agreement between the Owner and Construction Manager in accordance with this section and Article 6 as amended.

§ 3.2.1.1 Other than any subcontracts for portions of the work approved by the Owner prior to the establishment of the GMP, if the proposed GMP is acceptable to the Owner, the Owner shall, within fourteen (14) working days, approve the GMP in writing and issue a notice to proceed to Construction Manager indicating its approval of the GMP. The GMP shall be set forth in Exhibit A hereto. Bids for the construction work will then be formally awarded by the Construction Manager to the bidder selected by the Construction Manager subject to prior approval

of the Owner. Any bids for construction work for which the Construction Manager is also a bidder must be reviewed by the Owner and the Architect, and the selection shall be made by the Owner with the Architect's advice.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

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

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order. Construction Manager's contingency, which is a sum established by Construction Manager, approved by the Owner and Architect to cover additional development of plans and specifications and unforeseen costs which are properly reimbursable as Cost of the Work but which are not the basis for a Change Order or are not a cost for which Construction Manager is entitled to an equitable adjustment to the GMP under this Agreement. The contingency may be used by Construction Manager with written approval from the Owner and Architect for such reasons as scope gap, costs to expedite materials or accelerate performance to make up for delays that are the responsibility of Construction Manager, unforeseen general conditions expense, subcontractor buy-out errors by Construction Manager, subcontractor default, liens, or other reason or cause unrelated to a Change in the Work or unrelated to an event for which Construction Manager is entitled to an equitable adjustment to the GMP under this Agreement. Construction Manager will not be required to use its contingency for items that are the basis for a Change Order or for a cost for which Construction Manager is entitled to an equitable adjustment to the GMP under this Agreement, including (without limitation) Owner-directed changes, insufficient coordination of or deficiencies in design documents, unforeseen or differing site conditions, price escalation including tariffs, delay events beyond the control of Construction Manager (per § 8.3.1), increased costs due to epidemics/pandemics, increased costs due to a declared state of emergency, and failure of subcontractors or suppliers to honor quotes during the buy-out process. Any contingency remaining at the end of the Project shall be returned to the Owner. Notwithstanding the foregoing, the contingency cannot be used to pay or reimburse Construction Manager for costs or expenses which Construction Manager is required to pay without reimbursement under the Contract Documents or for which Construction Manager is liable under the terms of the Contract Documents due to the fault, negligence, or default of the Construction Manager, Subcontractors, suppliers or anyone for whose acts any of them may be liable.

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

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price by Owner's Board of Commissioners at a duly-called Board meeting, 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. The Construction Manager shall be allowed a maximum of five (5) business days from notice of acceptance of a Guaranteed Maximum Price to obtain the required bond form and insurance certificates, policies and

endorsements and return the same to Architect for review and transmittal to the Owner for the Owner's final review.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

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

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all applicable 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. The Guaranteed Maximum Price shall not include in the Cost of the Work any taxes from which the Owner is exempt.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase which shall be established by the Owner's issuance of a Notice to Proceed which included a date for the commencement of construction, or approval by the Owner of a construction schedule established by the Construction Manager in consultation with the Owner and Architect.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager. Notwithstanding the foregoing, the Construction Phase cannot commence, and no construction services may be performed, until the Payment and Performance bonds and the Construction Manager's insurance, required by the Contract Documents, have been provided by Construction Manager and approved by Owner.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings without additional cost to the owner to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

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

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner. The Construction Manager shall maintain at the Work site, and make available for viewing by Architect and Owner, record Drawings for the Project on which the Construction Manager has noted, in a timely manner, all deviations in the Work as performed from the Drawings provided by the Architect for the Project.

§ 3.3.2.4 Daily Logs

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

§ 3.3.2.5 Cost Control

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

Section 3.3.2.3 above.

§3.3.2.6 The Construction Manager shall, on behalf of the Owner, execute and enter into all contracts with Subcontractors and shall ensure that the contracts contain all provisions required by law, including, but not limited to, compliance with provisions addressing prevailing wages (18-2-403, 422 MCA); Montana residential preferences (18-2-403, MCA), nondiscrimination (49-3-207, MCA), maintenance of records requirements (18-2-406, and 422, MCA, as amended). The Construction Manager will conform to the provisions of §15-50-206, MCA, requiring the withholding of 1% of all payments due the Subcontractors or work it self-performs. For each contract, the Construction Manager will file the necessary forms, including the Form PC-1 and related forms, with the Montana Department of Revenue containing the information set forth in ARM 42.3 1.2121, within 10 days of the award of the contract. The Construction Manager will provide copies to the Owner upon request of all filings and transmittals made with or to the Department of Revenue in fulfillment of its obligations under this provision.

§3.3.2.7 The Construction Manager shall maintain the Project construction schedule incorporating the activities of the Subcontractors on the Project, including activity sequences and durations, allocation of labor and materials, and delivery of products requiring long-lead time and procurement. The Construction Manager shall maintain Shop Drawings, Product Data and Samples and other submittal material from the Subcontractors in a separate tabular schedule. The Project construction schedule shall include the Owner's occupancy requirements showing portions of the Project having occupancy priority. The Construction Manager shall update and reissue the Project construction schedule as required to show current conditions. If an update indicates that the preciously approved Project construction schedule may not be met, the Construction Manager shall recommend corrective action to the Owner and Architect.

§3.3.2.8 Consistent with the various bidding documents and utilizing information from the Subcontractors, the Construction Manager shall be responsible for coordinating the sequence of construction and the assigning of space in areas where the Subcontractors are performing Work.

§3.3.2.9 The Construction Manager shall determine in general that the Work of each Subcontractor is being performed in accordance with the requirements of the Contract Documents to guard the Owner against defects and deficiencies in the Work. As appropriate, the Construction Manager shall have the authority, upon written authorization from the Owner, to require additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. The Construction Manager, in consultation with the Architect, may reject Work that does not conform to the requirements of the Contract Documents.

§3.3.2.10 The Construction Manager shall schedule and coordinate the sequence of construction in accordance with the Contract Documents and the latest approved Project Construction schedule, as well as schedule and coordinate any outside inspections required by law so as to avoid unnecessary delays.

§3.3.2.11 The Owner shall arrange for the delivery, storage, protection and security of Owner purchased materials, systems and equipment that are part of the Project until such items are incorporated into the Project, if such materials, systems and equipment are identified in the plans and specifications.

§3.3.2.12 The Construction Manager shall review requests for changes, assist in negotiating the Subcontractor's proposals, submit recommendations to the Architect and Owner and, if they are accepted, prepare Change Orders and Construction Change Directives which incorporate the Architect's modifications to the Documents.

§3.3.2.13 In collaboration with the Architect, the Construction Manager shall establish and implement procedures for expediting the processing and approval of Shop Drawings, Product Data, Samples and other submittals. The Construction Manager shall review all Shop Drawings, Product Data, Samples and other submittals from the Subcontractors. The Construction Manager shall coordinate submittals with information contained in related documents and transmit to the Architect and Owner those that have been approved by the Construction Manager. The Construction Manager's actions shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner or Subcontractors.

§3.3.2.14 The Construction Manager shall maintain at the Project site for the Owner one record copy of all Contracts, Drawings, Specifications, addenda, Change orders and other Modifications, in good order and marked currently to record changes and selections made during construction, and in addition, approved Shop Drawings, Product Data, Samples and similar required submittals. The Construction Manager shall maintain records, in

duplicate, of principal building layout lines, elevations of the bottom of the footings, floor levels and key site elevations prepared by a qualified surveyor or professional engineer. The Construction Manager shall make all such records and record Drawings available to the Architect for review and upon completion of the Project shall deliver them to the Owner.

§3.3.2.15 With the Architect and the Owner's maintenance personnel, the Construction Manager shall conduct the final testing and start-up of utilities, operating systems and equipment.

§3.3.2.16 When the Construction Manager considers each Subcontractor's Work or designated portion thereof substantially complete the Construction Manager shall notify the Architect. The Construction Manager shall assist the Architect in conducting inspections to determine whether the Work or designated portion thereof is substantially complete.

§3.3.2.17 The Construction Manager shall coordinate and administer the correction and completion of the Work. Following issuance of a Certificate of Substantial Completion of the Work or a designated portion thereof, the Construction Manager shall evaluate the completion of the Work of the Subcontractors and make recommendations to the Architect when Work is ready for final inspection. The Construction Manager shall assist the Architect in making final inspections.

§3.3.2.18 The Construction Manager shall secure and transmit to the Architect all warranties and similar submittals required by the Contract Documents for delivery to the Owner and deliver all keys, manuals, record drawings and maintenance stocks to the Owner. The Construction Manager shall forward to the Architect a final Project Application for Payment upon compliance with the requirements of the Contract Documents.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

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

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

§ 4.1.3 The Owner with the assistance of the Architect and the Construction Manager shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs for the final completion of the project not included in the cost of the work, and (3) reasonable contingencies related to all of these costs. If the Owner's budget or Cost of the Work significantly increases or decreases, the Owner shall notify the Construction Manager and Architect. The Owner, in consultation with the Architect and the Construction Manager, may thereafter agree to a corresponding change in the Project's scope and quality to the extent necessary. Nothing herein shall obligate the Owner to agree to an increase in the Cost of the Work or construction costs or fees.

§ 4.1.4 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 reasonably rely on the accuracy of information and services furnished by the Owner except to the extent the Construction Manager knows of any inaccuracy or as otherwise stated in Article 4.1.6, and shall exercise proper precautions relating to the safe performance of the Work. Notwithstanding the foregoing, the Construction Manager shall exercise proper precautions relating to the safe performance of the Work.

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

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

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

§ 4.1.5 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.

§ 4.1.6 Documents provided by the Owner shall be provided for information and, if prepared by third parties, may not show the conditions at the Project site accurately. The Construction Manager shall use customary precaution relating to the performance of the Work. Notwithstanding the preceding sentences and the delivery of surveys or other documents and reports by the Owner, the Construction Manager shall perform all work in such a non-negligent manner so as to avoid damaging any utility lines, cables, pipes, or pipelines on the Property. The Construction Manager shall retain a third-party locate company to locate utility lines, pipes, and cables and shall be responsible for any damage done to such lines, cables, pipes and pipelines during the Work. The Owner shall promptly notify Construction Manager in the event it learns or discovers any of the documents contain any inaccuracies.

§ 4.1.7 Any additional tests, surveys, and reports reasonably requested the Construction Manager shall require the Owner's prior written approval.

§ 4.2 Owner's Designated Representative

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

§ 4.2.1 **Legal Requirements.** The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests. The Owner is not responsible for determining and advising Architect and Construction Manager of special legal requirements relating to the Project that differ from those generally applicable to construction. The Construction Manager and Architect are responsible for retaining separate legal counsel to provide legal information and services related to their work.

§ 4.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in the agreement between the Owner and Architect as amended including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

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

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

Billed on a monthly basis at a cost and not to exceed twenty-eight thousand four hundred two and no/100 (\$28,402.00)

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

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

Per RFP Submission Dated September 29,2025

Individual or Position	Rate
Project Executive – Cliff Garness –	\$157.00/HR
Pre-Construction Manager Curt Swets –	\$97.00/HR
Lead Estimator Trenton Pearce -	\$97.00/HR
Project Manager – Brooke Logan -	\$116.00/HR
Senior Preconstruction Manager – Jeremy Miller -	\$129.00/HR
Senior Superintendent – John Bales -	\$120.00/HR
Superintendent – Greg Darling	\$105.00/HR
MEP Coordinator – Lisa Lewis -	\$107.00/HR
Safety Coordinator – Adam Boyd -	\$110.00/HR
Administration – Rachel Alexander -	\$70.00/HR

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

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within Six (6) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

§ 5.2 Payments

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

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid 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.)

6 % per annum

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

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

§ 6.1.2 The Construction Manager's Fee:

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

4.0%

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

4.0%

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

10 % Overhead and 5% Profit

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed 100% the standard rental rate paid at the place of the Project.

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

N/A

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

§ 6.1.7.1 The sum of the Cost of the Work as defined in Subparagraph 7.1 below, together with the Construction Manager's Fee, is guaranteed by the Construction Manager not to exceed any GMP Amendment, and subject only to additions approved in accordance with the Agreement and the General Conditions, including any amendments thereto, made a part hereof. Such maximum sum as adjusted by approved changes in the Work is referred to herein as the adjusted Guaranteed Maximum Price. Any costs or expenses that cause the adjusted Guaranteed Maximum Price to be exceeded shall be the sole responsibility of and paid by the Construction Manager without reimbursement by the Owner.

§ 6.1.7.2 Any cost savings shall accrue to the benefit of the Owner. The Construction Manager is not entitled to any bonus or incentive under this Agreement.

§ 6.2 Guaranteed Maximum Price

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

§ 6.2.1 Should the Construction Manager complete the Project for less than the Guaranteed Maximum Price, the remaining funds shall be credited to the Owner as a deduction from the Guaranteed Maximum Price.

§ 6.2.2 POTENTIALLY PRICE-IMPACTED MATERIAL. Certain markets providing essential materials to the Project are expected to experience significant, industry-wide economic fluctuation during the performance of this Agreement that may impact price of materials required for construction of the Project. This Section provides for a fair allocation of the risk of such market conditions between the Owner and the Construction Manager.

- .1 BASELINE PRICE. The Construction Manager's Guaranteed Maximum Price will be based upon market prices for materials as of the date of the Guaranteed Maximum Price Amendment ("Baseline Price").
- .2 ADJUSTMENT IN BASELINE PRICE. If during the course of the Project any materials required for construction of the Project experience an increase in their Baseline Price by more than five percent (5%), the Construction Manager may notify the Owner in writing, no later than ten (10) days from the date the materials are ordered, stating the basis for an equitable adjustment to the Guaranteed Maximum Price, pursuant to Article 7 of the General Conditions, and shall provide appropriate documentation substantiating such adjustment. An adjustment in the pricing for any material price escalation shall not include any amount for overhead and profit. In the event of an increase in any material prices, the Guaranteed Maximum Price shall be equitably adjusted to reflect such increase, but only: (a) to the extent the price of such materials exceeds one-hundred-five percent (105%) of the Baseline Price at the time the GMP Amendment was executed; and (b) for those materials ordered on, after, or within the 10 days preceding the date on which written notice of the adjustment in material prices is given.
- .3 No adjustment shall be made for any quantities of materials scheduled for delivery under the terms of the Agreement more than 10 days prior to the date on which written notice of the adjustment market price is given.
- .4 Payment, if any, for an adjustment shall be made in accordance with the terms of the Agreement.
- .5 Compensation for any material escalation shall not be duplicated in any contingency amounts established under the terms of the Agreement.
- .6 All adjustments in Baseline Price must be approved by the Owner in writing.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work. All such changes under this provision to the scope of the project, contract time or overall budget shall be subject to the approval of the Owner's Board of Commissioners prior to the time the work is performed.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201-2017, General Conditions of the Contract for Construction, including any amendments thereto.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201-2017, General Conditions of the Contract for Construction, including any amendments thereto, or as otherwise provided in the Contract Documents.

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

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

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

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term "Cost of the Work" shall mean the aggregate total of all Subcontracts and Material Supply Contracts awarded for construction work in connection with the Project and any general conditions of the Construction Manager approved by the Owner in accordance with Article 2.2.1 above. The Cost of the Work does not include the Construction Manager's fee. All fees and costs, including the Cost of the Work, Construction Manager's fee, and any contracts awarded to the Construction Manager for construction work, shall not exceed the Guaranteed Maximum Price Amendment unless approved by the Owner in writing in accordance with the Contract Documents. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost. The Owner shall be deemed to have approved such costs only if the Construction Manager has provided the Owner with a written breakdown of the costs prior to incurring such costs, the approximate dollar amounts attributable thereto, and the Owner has approved such costs in writing.

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

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

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

§ 7.2.2.1 Wages or salaries of the Construction Manager’s supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:
(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)

Cliff Garness, Project Executive	\$157.00/HR
Brooke Logan, Project Manager	\$116.00/HR
Casey Roen, Project Engineer	\$97.00/HR
Jeremy Miller, Senior Precon Manager	\$129.00/HR
Curt Swets, Precon Manager	\$107.00/HR
Trenton, Pearce, Lead Estimator	\$107.00/HR
John Bales, Senior Superintendent	\$120.00/HR
Greg Darling, Superintendent	\$105.00/HR
Adam Boyd, Safety Coordinator	\$110.00/HR
Rachel Alexander, Admin	\$70.00/HR »

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

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

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

§ 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement, including (i) payments made for invoices submitted by Construction Manager for bid package work performed as a Subcontractor; and (ii) payments made directly to materials suppliers or Subcontractors of any Subcontractor in order to obtain releases of liens from such material suppliers or Subcontractors.

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

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

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

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

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

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand

tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

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

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

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

§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of bonds required by the Contract Documents that can be directly attributed to this Contract, including premiums for bonds requested by the Construction Manager with respect to any subcontractors with approval of the Owner. Costs related to insurance for the project shall be included as part of the General Conditions costs in accordance with the RFP solicitation documents with the exception of builders risk insurance (this is a separate fee outside the proposed general conditions). Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

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

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

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

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

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

§ 7.6.6 Costs of document reproductions and delivery charges.

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

§ 7.6.9 Subject to the Owner's prior 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, with the Owner's prior approval.

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

§ 7.7 Other Costs and Emergencies

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

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

amendments thereto.

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

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017, including any amendments thereto, or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

§ 7.8 Related Party Transactions

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

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9. In the event Construction Manager is awarded a bid package scope of work, with Owner’s written approval, Construction Manager’s compensation for the bid package work shall be on the basis of the lump sum price approved by Owner for the bid package. Construction Manager shall invoice for any such bid package work as a Subcontractor, and payment to Construction Manager by Owner for such bid package work shall be based on Construction Manager’s invoices as a Subcontractor.

§ 7.9 Costs Not to Be Reimbursed

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

- .1 Salaries and other compensation of the Construction Manager’s personnel stationed at the Construction Manager’s principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager’s principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager’s capital expenses, including interest on the Construction Manager’s capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner that would cause the Guaranteed Maximum Price to be exceeded;
- .9 Costs for services incurred during the Preconstruction Phase;
- .10 Reimbursable costs not approved by the Owner; and
- .11 Delay damages or claims or storage costs without prior written approval by the Owner, unless awarded pursuant to binding dispute resolution in accordance with Article 15 of the General Conditions.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

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

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

§ 8.3 The Construction Manager shall take advantage of all available discounts, rebates and refunds for supplies, materials, and equipment connected with the Work and which conform to the Contract Documents, which discounts, rebates, and refunds shall accrue to the benefit of the Owner.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

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

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may request that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner subject to approval by the Owner which shall not be unreasonably withheld.

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

ARTICLE 10 ACCOUNTING RECORDS

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

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

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

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§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the 25th day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 30th day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Architect receives the Application for Payment.

§ 11.1.3.1 Progress payments are due and payable to the provisions of Section 7.1.3 above unless within twenty-one (21) days after receipt of the request by the Owner or the person designated in the contract by the Owner to receive the payment request, the Owner provides the Construction Manager with a written statement containing specific items in the request for payment that are being disapproved by the Owner or Architect. The Owner may withhold amounts of any disapproved items. The Owner shall release remaining amounts owed as soon as such items have been corrected and approved.

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit such 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 (1) progress payments already received by the Construction Manager; less (2) that portion of those payments attributable to the Construction Manager's Fee; plus (3) payrolls for the period covered by the present Application for Payment if requested by the Owner with the understanding that the Construction Manager shall maintain payroll records for the Project which shall be available to the Owner. Each Application for Payment shall also include a list, with backup data, of how each payment shall be spent, including a list detailing which subcontractors and suppliers will be paid out of funds paid by the Owner and the amount of such payments to subcontractors and suppliers, and in the next payment cycle, proof of each payment to Construction Manager's subcontractors and suppliers after payment. Prior to, or simultaneously with, the next payment cycle, Construction Manager shall furnish unconditional lien releases for each subcontractor or supplier paid under the previous payment cycle.

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

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

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values and any overrun or underrun in a line item may be balanced against an overrun or underrun in another line item with written approval from the Owner, as long as the total of the schedule of values remain with the GMP. Any amounts balanced in the schedule of values may only include Costs of the Work that are reimbursable under the terms of the Contract Documents.

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

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of

the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

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

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

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

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

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017, including any amendments thereto;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017, including any amendments thereto;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

Five Percent (5%)

§ 11.1.8.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

Pre-Construction Services Fees

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

To be discussed after the contractor achieves substantial complete on Phase I of the project.

§ 11.1.8.3 The retainage shall be released when the Project receives a certificate of occupancy and all Work has been accepted by the Owner and, if required, the federal, state, and/or local authority having jurisdiction.

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

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

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

§ 11.1.11.1 The Construction Manager shall develop and implement procedures for the timely review and processing of applications for payment by Subcontractors and Material Suppliers for progress and final payments.

§ 11.1.11.2 Based on the Construction Manager's observations and evaluations of each Subcontractor's and Material Supplier's application for payment, the Construction Manager shall review and certify the amounts due the respective Subcontractors and Material Suppliers and shall incorporate such certified amounts into the Application for Payment developed in accordance with this Section 11.

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

§ 11.1.13 The Construction Manager's certification for payment shall constitute a representation to the Owner, based on the Construction Manager's determination at the site and on the data comprising the Subcontractor's and Material Supplier's applications for payment, that, to the best of the Construction Manager's knowledge, information and belief, the Work has progressed to the point indicated and 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 minor deviations from the Contract Documents correctable prior to completion and to specific qualifications expressed by the Construction Manager in writing. The issuance of a Certificate for Payment shall further constitute a representation that the various Subcontracts are entitled to payment in the amount certified.

§ 11.1.14 If the Owner is entitled damages or any other amounts provided in the Contract Documents, including clean-up fees, then the Owner shall be entitled to deduct such damages, amounts and fees due the Construction Manager at any time.

§ 11.1.15 The Owner shall, in accordance with sections §§ 15-50-101, 15-50-206, MCA, withhold one percent (1%) of all payments due to the Construction Manager and shall transmit that money to the Montana Department of Revenue.

§ 11.2 Final Payment

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

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, including any amendments thereto, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner may at its sole discretion conduct an audit of the Cost of the Work.

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

§ 11.2.2.2 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017 including any amendments thereto. 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.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

Except as may otherwise be provide herein, final payment shall be made by the Owner to the Construction Manager when (1) this Agreement has been fully performed by the Construction Manager and all Work completed by the Subcontractors and Material Suppliers, except for their respective responsibilities to (a) correct nonconforming Work as provided in AIA Document A201 and (b) satisfy other requirements, if any, which necessarily survive final payment; (2) a final Application for Payment and a final accounting for the Cost of the Work and General Condition Expenses have been submitted by the Construction Manager and reviewed by the Owner and/or its accountants; and (3) a final Certificate for Payment has then been issued by the Architect.

The final certificate of payment will not be issued until the punchlist is one hundred percent (100%) complete and all lien releases have been properly processed and submitted. Punchlist items incomplete following substantial completion will have retainage withheld up to 150% of the value of the work until complete. All other retainage of work complete and accepted will be released.

If Construction Manager fails or refuses to complete the Work, or has unsettled claims with Owner, then any Final Payment to Construction Manager shall be subject to deduction for such amounts as the Architect shall determine as the costs for completing incomplete Work and the value of unsettled claims. The amount of Final Payment shall be subtracted by amounts the Owner disputes or refuses or withholds payment.

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

§ 11.3 Interest

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

(Insert rate of interest agreed upon, if any.)

6 % per annum

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

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

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, including any amendments thereto, 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.)

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§ 12.2 Binding Dispute Resolution

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

- Arbitration pursuant to Article 15 of AIA Document A201–2017
- Litigation in the 13th Judicial Yellowstone County of Montana (Yellowstone County)
- Other: *(Specify)*

« »

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

§ 12.3 Mediation

§ 12.3.1 Any claim, dispute or other matter in question arising out of or related to this Agreement may be mediated as set forth herein. If such matter relates to or is the subject of a lien arising out of the Construction Manager's services, the Construction Manager may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation, litigation or by binding dispute resolution.

§ 12.3.3 The mediator's fee and any filing fees shall be paid in equal shares by the parties to the mediation. The mediation shall be held at a place and time agreed to by the Owner and Construction Manager. In the event they cannot agree, then the mediator shall designate the place and time for the mediation. Agreements reached in mediation shall be enforceable as settlement agreements shall be filed in the _ 10th _ Judicial Yellowstone County Court of the State of Montana (Fergus County).

§ 12.3.4 Subject to any dispute resolution procedures required herein or if the parties have not otherwise resolved their claims, disputes or other matters pursuant to this Section 9.2, they may pursue enforcement of this Agreement in the ___
13th Judicial Yellowstone County Court of the State of Montana (Yellowstone County).

§ 12.3.5 The Construction Manager agrees to indemnify, defend and hold harmless the Owner and its Commissioners, officers, agents, and employees from and against any and all liability, damages, losses and costs (including, but not limited to, reasonable attorney fees) but only to the extent that such liability damages, losses and costs are caused by the negligence, recklessness, or intentional misconduct of the Construction Manager or those for whom the Construction Manager is legally liable in rendering services under this Agreement. The Construction Manager is not obligated to defend, indemnify or hold harmless the owner, or its Commissioners, officers, agents and employees, from liability, damages or costs caused by the acts, omissions, or misconduct of the Owner, anyone for whom the Owner is responsible, or any third party for whom the Construction Manager is not legally liable.

The Owner agrees to indemnify, defend and hold harmless the Construction Manager, and its members, partners, principals, shareholders and employees, from and against any and all liability, damages, losses and costs (including, but not limited to, reasonable attorney's fees) but only to the extent caused by the negligence, recklessness, or intentional misconduct of the Owner or those for whom the Owner is legally liable. The Owner is not obligated to defend, indemnify, or hold harmless the Construction Manager, or its members, partners, principals, shareholders and employees, from liability, damages or costs caused by the acts, omissions, or misconduct of the Construction Manager, anyone for whom the Construction Manager is responsible, or any third party for whom the Owner is not

legally liable.

ARTICLE 13 TERMINATION OR SUSPENSION

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

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

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

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

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

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

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

Under no circumstances shall any amount beyond amounts that are tied to actual work performed be paid to the Construction Manager.

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

§ 13.1.6.1 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.

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

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§ 13.2.1 Termination

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

§ 13.2.2 Termination by the Owner for Cause

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

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017, including any amendments thereto.

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

§ 13.2.3 Termination by the Owner for Convenience

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

Zero dollars (\$0)

§ 13.3 Suspension

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

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201–2017, including any amendments thereto. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 14.2.2 The Owner may, without consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

§ 14.3 Insurance and Bonds

§ 14.3.1 Insurance

The Construction Manager shall maintain the following insurance for all phases of the Project.

§ 14.3.1.1 Insurance

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

Coverage	Limits
Insurance in accordance with attached Insurance Exhibit	Limits in accordance with attached Insurance Exhibit

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

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

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

§ 14.3.1.5 The Construction Manager shall not cancel or reduce coverage under any policies of insurance required hereunder either before or after completion of the Work without written consent of the Owner.

§ 14.3.1.6 The carrying of insurance shall not be deemed to release the Construction Manager or in any way diminish its liability, by way of indemnity or otherwise, as assumed by it under the Contract Documents.

§ 14.3.2 Bonds

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in the Contract Documents. The Construction Manager shall provide performance and payment bonds in the amount of 100% of the total contract sum.

§ 14.4 Other provisions:

§ 14.4.1 The Construction Manager shall itself comply with and shall notify in writing the various Subcontractors of their obligations to comply with §18-2-406, MCA in terms of giving preference to the employment of bona fide Montana residents in the work it performs under this Agreement and in paying the standard prevailing wage rate of wages, including travel allowance and fringe benefits, in effect and applicable to the operations that are conducted in performing the Work on this Project. The Construction Manager will properly classify its employees and ensure that the various Subcontractors properly classify their respective employees in accordance with the most recent Montana prevailing wage rates as established by the Montana Department of Labor prior to commencing operations under this Agreement. A copy of the applicable prevailing wage rates must be contained in the Project Manual and are expressly incorporated herein by reference.

§ 14.4.2 No waiver of any breach of any one of the agreements, terms, conditions or covenants of this Agreement by the Owner or the Construction Manager shall be deemed to imply or constitute a waiver of any other agreement, term, condition or covenant of this Agreement. The failure of either party to insist on strict performance of any agreement, term, condition or covenant herein set forth, shall not constitute or be construed as a waiver of the rights of either or the other thereafter to enforce any other default of such agreement, term, condition or covenant; neither

shall such failure to insist upon strict performance be deemed sufficient ground to enable either party to forgo or subvert or otherwise disregard any other agreement, term, condition or covenant of this Agreement.

§ 14.4.3 If in any instance any provision hereof shall be determined to be invalid or unenforceable under any applicable law, such provision shall not apply in such instance, but the remaining provision shall be given effect in accordance with their terms.

§ 14.4.4 This Agreement may be executed in several counterparts, and each such counterpart shall be deemed an original.

§ 14.4.5 Time is of the essence, and the Construction Manager agrees to proceed with the provision of services under this Agreement with due diligence and without delay, in order to meet the Owner's schedule of construction and occupancy. It is expressly agreed and understood between the parties that the project must reach Substantial Completion no later than the date agreed to in writing by Owner and Construction Manager with the advice of the Architect.

§ 14.4.6 In the event either party files suit to enforce their rights under this Agreement the prevailing party shall be entitled to recover its costs and attorney's fees from the other party, in addition to any other damages awarded by the court. It is understood and agreed that any suit filed to interpret or enforce any of the provisions of this Agreement shall be filed in the 13th Judicial Yellowstone County Court of the State of Montana (Yellowstone County).

§ 14.4.7 Any notices required or permitted under this Agreement or which any party elects to give shall be in writing and delivered either personally to the other party's authorized agent set forth on page 1 (or as changed by written notice); or by depositing such notice with the United States Postal Service, postage fully prepaid, to the person at the address set forth on page 1; by certified mail, return receipt requested; or to such other address as either party may later designate in writing. Any notice given by mail as herein provided shall be deemed given when deposited in the United States Mail;

§ 11.8 The Construction Manager shall not allow any liens to be filed against the Owner relating to the Work to be performed or labor or materials to be furnished under the Contract Documents. The Construction Manager shall indemnify and hold the Owner harmless from all liens, or claims of rights to enforce liens, against the Owner arising out of any work to be performed or labor or materials to be furnished under the Contract Documents. Neither Final Payment by the Owner nor acceptance of the Work shall constitute a waiver of this indemnity. If any lien or claim for lien shall at any time be filed, the Construction manager shall refund to the Owner all monies the Owner may be compelled to pay in discharging the lien including all costs and reasonable attorneys' fees.

ARTICLE 15 SCOPE OF THE AGREEMENT

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

§ 15.2 The following documents comprise the Agreement:

- .1 AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed
- .3 Exhibit D, Insurance and Bonds
- .4 AIA Document A201™-2017, including amendments thereto, General Conditions of the Contract for Construction
- .5 Other Exhibits:
(Check all boxes that apply.)

Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
----------	-------	------	-------

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

Exhibit A – Sletten Proposal RFP
 Exhibit B – County Insurance Requirements

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

OWNER <i>(Signature)</i> BY: Yellowstone County Board of County Commisioners <hr style="border: 0; border-top: 1px solid black;"/> <i>(Printed name and title)</i>	CONSTRUCTION MANAGER <i>(Signature)</i> BY: Cliff Garness <hr style="border: 0; border-top: 1px solid black;"/> <i>(Printed name and title)</i>
--	--

Additions and Deletions Report for AIA® Document A133® – 2019

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 22:21:45 MDT on 05/26/2026.

Changes to original AIA text

PAGE 1

AGREEMENT made as of the 21st day of May in the year 2026

Yellowstone County

217 North 27th Street

Billings, MT 59101

Sletten Construction Company

1000 25th Street North

PO Box 2467

Great Falls, MT 59403

Yellowstone County Courthouse Renovation

217 North 27th Street

Billings, MT 59101

A&E + SMA Design

124 North 29th Street, Suite 100

Billings, MT 59101

PAGE 2

1—— INITIAL INFORMATION

2—— GENERAL PROVISIONS

3—— CONSTRUCTION MANAGER'S RESPONSIBILITIES

4—— OWNER'S RESPONSIBILITIES

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5— COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

6— COMPENSATION FOR CONSTRUCTION PHASE SERVICES

7— COST OF THE WORK FOR CONSTRUCTION PHASE

8— DISCOUNTS, REBATES, AND REFUNDS

9— SUBCONTRACTS AND OTHER AGREEMENTS

10— ACCOUNTING RECORDS

11— PAYMENTS FOR CONSTRUCTION PHASE SERVICES

12— DISPUTE RESOLUTION

13— TERMINATION OR SUSPENSION

14— MISCELLANEOUS PROVISIONS

15— SCOPE OF THE AGREEMENT

EXHIBIT A— GUARANTEED MAXIMUM PRICE AMENDMENT

EXHIBIT B— INSURANCE AND BONDS

§ 1.1.2 The Project's physical characteristics:

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

«TBD »

TEN MILLION FIVE HUNDRED FIFTY-FIVE THOUSAND SIX HUNDRED FORTY AND NO/100
(\$10,555,640.00)

.1— Design phase milestone dates, if any:

NA

PAGE 3

.2— Construction commencement date:

.3— Anticipated to be July 1, 2026

.3 Substantial Completion date or dates:

.4— March 30, 2027

.4 Other milestone dates:

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:

(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™ 2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234 2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate

~~the completed E234 – 2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective Phase 1 of this Project is – Renovation construction for 3rd Floor and 1st Floor.~~

N/A

Matt Kessler

Yellowstone County Purchasing

217 North 27th Street

Billings, MT 59101

Shane Swandal

Alec Pinero

Hulteng CCM

6417 Trade Center Ave

Billings, MT 59101

TBD

.1— Geotechnical Mechanical Engineer:

.2— N/A

.2 Civil Engineer:

.3— N/A

PAGE 4

.3 Other, if any:

Asbestos Abatement Consultant – Northern Industrial Hygiene

Special Inspections Testing – TBD

Commissioning Services - TBD »

Thomas Pertuit

A&E + SMA Design

124 North 29th Street, Suite 100

Billings, MT 59101

406.248.2633

Brooke Logan

Sletten Construction Company

1000 25th Street North

Great Falls, Montana 59403

406.761.7920

Per RFP submission Dated September 29, 2025

NA

NA

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

The 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, Bid/Proposal (RFQ and RFP) documents, Construction Manager's proof of payment and performance and payment bonds and proof of insurance, 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 and incorporated herein as if attached to this Agreement or repeated herein. Any modifications of the Contract Documents with respect to scope of the project, contract time or overall budget must be approved by Owner's Board of Commissioners. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. ~~An enumeration of the Contract Documents, other than a Modification, appears in Article 15.~~

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§ 2.1.1 The Construction Manager (or GC/CM) has been provided a copy of the Agreement Between Owner and Architect and the General Conditions of the Contract for Construction and any amendments thereto, which together are included in the contract documents. The Construction Manager acknowledges that such documents have been reviewed and understands those references to the duties and responsibilities of the Construction Manager contained therein. The Construction Manager understands and acknowledges that the Owner has decided to utilize an alternative project delivery method for the Project, which it has determined to be based on a General Contractor Construction Manager Contract between the Owner and a Construction Manager.

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. The Construction Manager is an independent contractor of the Owner.

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

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Law. The term "Contractor" as used in A201-2017 shall mean the Construction Manager. The Parties acknowledge and agree that the Construction Manager will provide services for the Preconstruction Phase, (which shall run through Bidding Phase) and through the Construction Phase. The Parties agree and acknowledge that the Project may proceed with a phased or sequential bidding process and that Portion of the Project may enter Construction Phase while other portions of the Project remain in the Preconstruction Phase.

§ 2.3.2 For the Construction Phase, the general conditions of the contract Construction Manager's responsibilities to the Owner shall be as set forth in A201-2017, which document is this Agreement and in AIA Document A201-2017 "General Conditions of the Contract for Construction" and any amendments thereto which are incorporated herein by reference. The term "Contractor" as used in A201-2017 shall mean the Construction Manager. (hereinafter collectively referred to as "AIA Document A201"). For the Preconstruction Phase, or in the event that the Preconstruction and Construction Phases proceed concurrently, AIA Document A201, including any amendments thereto, shall apply to the Preconstruction Phase only as specifically provided in this Agreement. The term Contractor as used the AIA Document A201 shall mean the Construction Manager or GC/CM. Any reference to AIA Document A133-2019 in any document applicable to the Project shall mean such AIA document as modified herein. If any provisions of AIA Document A201, including any amendments thereto, are in direct conflict with any provision of this Agreement or of the Owner/Architect Agreement between the Owner and Architect with respect to this Project, the provisions of this Agreement as amended shall control.

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017, including any amendments thereto, referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, 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.

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§ 3.1.3 Additional Pre-Construction Phase Responsibilities

Construction, or any portion of Construction, will not commence until plans and specifications have been submitted to and approved as required by the Owner and by statute and regulation and any state, local, or governing body having jurisdiction over the Project or any portion of it.

§ 3.1.3.3 The In reviewing the Contract Documents, Construction Manager shall assist the Owner and Architect in establishing written protocols for the development, use, transmission, reliance, and exchange of digital data, including building information models for the Project endeavor to detect any errors, omissions, or inconsistencies in the design or other documents which affect the performance or constructability of the Work. Construction Manager shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require. It is recognized that the Construction Manager's review is made in the Construction Manager's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

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

§ 3.1.6.3 If the The Construction Manager and Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost

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estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates shall compare their estimates at each stage and shall review portions of their estimates that are materially different from one another. Construction Manager and Architect shall determine the cause of the differences, correct any errors and reconcile their estimates. Architect and Construction Manager shall promptly notify Owner in the event they are unable to agree on a reconciliation of the estimates or if the probable construction costs exceed the Owner's construction budget, and the Construction Manager shall make recommendations for corrective action if the estimates or the final bidding and proposals are determined to be out of budget.

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

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

~~§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the The Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval. The Construction Manager shall prepare and implement a subcontracting plan which provides for participation for qualified local businesses.~~

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Per RFP Submission dated September 29, 2025

The Construction Manager will, in addition to any other services set forth under Paragraph 3.1 provide the following Preconstruction services:

- .1 Consult with, advise, assist, and provide recommendations to the Owner and Architect on all aspects of the planning and design of the Work at construction document phase.
- .2 Provide information, estimates, and participate in decisions regarding construction materials, methods, systems, phasing, and costs to assist in determinations that are aimed at providing the highest quality building within the Owner's budget and schedule.
- .3 Review in progress design documents as supplied by the Architect and provide input and advise on construction feasibility, alternative materials, and availability of materials and equipment; Review completed design documents and suggest modifications to improve completeness and clarity.
- .4 Provide input regarding the current construction market bidding climate, status of key subcontract markets, etc. Recommend division of work to facilitate bidding and award of trade contracts, considering such factors as bidding climate, improving or accelerating construction completion, minimizing trade jurisdictional disputes, and related issues.
- .5 Develop and continuously monitor the Project schedule and recommend adjustments in the design documents or construction bid packaging to ensure completion of the Project in the most expeditious manner possible, while addressing and meeting schedule requirements.
- .6 Prepare construction cost estimates for the Project at appropriate times throughout the design phases of the work; Notify the Owner and Architect immediately if the provided construction cost estimates appear to be exceeding the Owners' budget.
- .7 Attend meetings of the Board of Commissioners, at the Construction Documents, Bidding Phase, Construction Phase or Phases as coordinated with the Owner and Architect. The Construction Manager shall report to the Owner's Board of Commissioners, at the Owner's request, information regarding the Work performed.

- .8 Assist the Architect to the extent requested by the Architect within the areas of responsibility of the Construction Manager in the submission of the Construction Documents to the specific state and local agencies having jurisdiction over the Project, including but not limited to review under §20-6-622, MCA and in securing written approval from those agencies.
- .9 With the assistance of the Owner and the Architect determine the number and nature of the bid packages to be placed for bid, open the bid on behalf of the Owner using a process determined by the Construction Manager and following a review of the bids conducted with the Architect and a representative of the Owner, at the Owner's request, prepare a written bid analysis and recommendation for the award of the bid for presentation to the Owner, along with supporting documentation.
- .10 The Construction Manager with the assistance of the Architect shall prepare the advertisements for bids, as well as the necessary forms, record of bidders, plan deposits, proposals and other bidding and construction documents prior to distribution to prospective bidders. The Construction Manager shall also work with the Architect to ensure that the bid specifications and Construction Documents contain the provisions required by Montana law, including but not limited to prevailing wages (18-2-403 and 18-2-422, MCA; ARM 24.16.9005), resident hiring preference (18-2-403, MCA), nondiscrimination (49-3-207, MCA), provisions required by Montana and federal law for public contracting as well as any laws or regulations imposed by local authorities.

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2. When the Architect has fully completed the plans and specifications for the Work and has the necessary governmental and other approvals, and following any ensuing bidding phase, the Construction Manager shall propose, in writing, a guaranteed maximum price (GMP), which shall include, among other items specified in the agreement (1) the sum of all of the awarded contracts for the Work and the Construction Manager's proposed reimbursable costs for any construction items or activities not included in the awarded contracts (Cost of the Work) and (2) the Construction Manager's fee. Such reimbursable costs must be approved by the Owner, and the Owner shall have the right to pay any fixed costs directly where feasible, thereby reducing the overall GMP. If the GMP proposal exceeds the Construction Manager's most recent approved cost estimate relating to any portion of the construction work, at the request of the Owner, the Construction Manager (at no additional cost to the Owner) shall work with the Architect to bring the Project within the approved cost estimate. The Construction Manager's fee will be established by agreement between the Owner and Construction Manager in accordance with this section and Article 6 as amended.

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§ 3.2.1.1 Other than any subcontracts for portions of the work approved by the Owner prior to the establishment of the GMP, if the proposed GMP is acceptable to the Owner, the Owner shall, within fourteen (14) working days, approve the GMP in writing and issue a notice to proceed to Construction Manager indicating its approval of the GMP. The GMP shall be set forth in Exhibit A hereto. Bids for the construction work will then be formally awarded by the Construction Manager to the bidder selected by the Construction Manager subject to prior approval of the Owner. Any bids for construction work for which the Construction Manager is also a bidder must be reviewed by the Owner and the Architect, and the selection shall be made by the Owner with the Architect's advice.

- .1— A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2— A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3— A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;

- .4— The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5— A date by which the Owner must accept the Guaranteed Maximum Price.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order. Construction Manager's contingency, which is a sum established by Construction Manager, approved by the Owner and Architect to cover additional development of plans and specifications and unforeseen costs which are properly reimbursable as Cost of the Work but which are not the basis for a Change Order or are not a cost for which Construction Manager is entitled to an equitable adjustment to the GMP under this Agreement. The contingency may be used by Construction Manager with written approval from the Owner and Architect for such reasons as scope gap, costs to expedite materials or accelerate performance to make up for delays that are the responsibility of Construction Manager, unforeseen general conditions expense, subcontractor buy-out errors by Construction Manager, subcontractor default, liens, or other reason or cause unrelated to a Change in the Work or unrelated to an event for which Construction Manager is entitled to an equitable adjustment to the GMP under this Agreement. Construction Manager will not be required to use its contingency for items that are the basis for a Change Order or for a cost for which Construction Manager is entitled to an equitable adjustment to the GMP under this Agreement, including (without limitation) Owner-directed changes, insufficient coordination of or deficiencies in design documents, unforeseen or differing site conditions, price escalation including tariffs, delay events beyond the control of Construction Manager (per § 8.3.1), increased costs due to epidemics/pandemics, increased costs due to a declared state of emergency, and failure of subcontractors or suppliers to honor quotes during the buy-out process. Any contingency remaining at the end of the Project shall be returned to the Owner. Notwithstanding the foregoing, the contingency cannot be used to pay or reimburse Construction Manager for costs or expenses which Construction Manager is required to pay without reimbursement under the Contract Documents or for which Construction Manager is liable under the terms of the Contract Documents due to the fault, negligence, or default of the Construction Manager, Subcontractors, suppliers or anyone for whose acts any of them may be liable.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price by Owner's Board of Commissioners at a duly-called Board meeting, 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. The Construction Manager shall be allowed a maximum of five (5) business days from notice of acceptance of a Guaranteed Maximum Price to obtain the required bond form and insurance certificates, policies and endorsements and return the same to Architect for review and transmittal to the Owner for the Owner's final review.

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§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all applicable 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. The Guaranteed Maximum Price shall not include in the Cost of the Work any taxes from which the Owner is exempt.

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase- which shall be established by the Owner's issuance of a Notice to Proceed which included a date for the commencement of construction, or approval by the Owner of a construction schedule established by the Construction Manager in consultation with the Owner and Architect.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, ~~and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.~~ Notwithstanding the foregoing, the Construction Phase cannot commence, and no construction services may be performed, until the Payment and Performance bonds and the Construction Manager's insurance,

required by the Contract Documents, have been provided by Construction Manager and approved by Owner.

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings without additional cost to the owner to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

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 maintain at the Work site, and make available for viewing by Architect and Owner, record Drawings for the Project on which the Construction Manager has noted, in a timely manner, all deviations in the Work as performed from the Drawings provided by the Architect for the Project.

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§3.3.2.6 The Construction Manager shall, on behalf of the Owner, execute and enter into all contracts with Subcontractors and shall ensure that the contracts contain all provisions required by law, including, but not limited to, compliance with provisions addressing prevailing wages (18-2-403, 422 MCA); Montana residential preferences (18-2-403, MCA), nondiscrimination (49-3-207, MCA), maintenance of records requirements (18-2-406, and 422, MCA, as amended). The Construction Manager will conform to the provisions of §15-50-206, MCA, requiring the withholding of 1% of all payments due the Subcontractors or work it self-performs. For each contract, the Construction Manager will file the necessary forms, including the Form PC-1 and related forms, with the Montana Department of Revenue containing the information set forth in ARM 42.3 1.2121, within 10 days of the award of the contract. The Construction Manager will provide copies to the Owner upon request of all filings and transmittals made with or to the Department of Revenue in fulfillment of its obligations under this provision.

§3.3.2.7 The Construction Manager shall maintain the Project construction schedule incorporating the activities of the Subcontractors on the Project, including activity sequences and durations, allocation of labor and materials, and delivery of products requiring long-lead time and procurement. The Construction Manager shall maintain Shop Drawings, Product Data and Samples and other submittal material from the Subcontractors in a separate tabular schedule. The Project construction schedule shall include the Owner's occupancy requirements showing portions of the Project having occupancy priority. The Construction Manager shall update and reissue the Project construction schedule as required to show current conditions. If an update indicates that the preciously approved Project construction schedule may not be met, the Construction Manager shall recommend corrective action to the Owner and Architect.

§3.3.2.8 Consistent with the various bidding documents and utilizing information from the Subcontractors, the Construction Manager shall be responsible for coordinating the sequence of construction and the assigning of space in areas where the Subcontractors are performing Work.

§3.3.2.9 The Construction Manager shall determine in general that the Work of each Subcontractor is being performed in accordance with the requirements of the Contract Documents to guard the Owner against defects and deficiencies in the Work. As appropriate, the Construction Manager shall have the authority, upon written authorization from the Owner, to require additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. The Construction Manager, in consultation with the Architect, may reject Work that does not conform to the requirements of the Contract Documents.

§3.3.2.10 The Construction Manager shall schedule and coordinate the sequence of construction in accordance with the Contract Documents and the latest approved Project Construction schedule, as well as schedule and coordinate any outside inspections required by law so as to avoid unnecessary delays.

§3.3.2.11 The Owner shall arrange for the delivery, storage, protection and security of Owner purchased materials, systems and equipment that are part of the Project until such items are incorporated into the Project, if such materials, systems and equipment are identified in the plans and specifications.

§3.3.2.12 The Construction Manager shall review requests for changes, assist in negotiating the Subcontractor's proposals, submit recommendations to the Architect and Owner and, if they are accepted, prepare Change Orders and Construction Change Directives which incorporate the Architect's modifications to the Documents.

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§3.3.2.13 In collaboration with the Architect, the Construction Manager shall establish and implement procedures for expediting the processing and approval of Shop Drawings, Product Data, Samples and other submittals. The Construction Manager shall review all Shop Drawings, Product Data, Samples and other submittals from the Subcontractors. The Construction Manager shall coordinate submittals with information contained in related documents and transmit to the Architect and Owner those that have been approved by the Construction Manager. The Construction Manager's actions shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner or Subcontractors.

§3.3.2.14 The Construction Manager shall maintain at the Project site for the Owner one record copy of all Contracts, Drawings, Specifications, addenda, Change orders and other Modifications, in good order and marked currently to record changes and selections made during construction, and in addition, approved Shop Drawings, Product Data, Samples and similar required submittals. The Construction Manager shall maintain records, in duplicate, of principal building layout lines, elevations of the bottom of the footings, floor levels and key site elevations prepared by a qualified surveyor or professional engineer. The Construction Manager shall make all such records and record Drawings available to the Architect for review and upon completion of the Project shall deliver them to the Owner.

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§3.3.2.15 With the Architect and the Owner's maintenance personnel, the Construction Manager shall conduct the final testing and start-up of utilities, operating systems and equipment.

§3.3.2.16 When the Construction Manager considers each Subcontractor's Work or designated portion thereof substantially complete the Construction Manager shall notify the Architect. The Construction Manager shall assist the Architect in conducting inspections to determine whether the Work or designated portion thereof is substantially complete.

§3.3.2.17 The Construction Manager shall coordinate and administer the correction and completion of the Work. Following issuance of a Certificate of Substantial Completion of the Work or a designated portion thereof, the Construction Manager shall evaluate the completion of the Work of the Subcontractors and make recommendations to the Architect when Work is ready for final inspection. The Construction Manager shall assist the Architect in making final inspections.

§3.3.2.18 The Construction Manager shall secure and transmit to the Architect all warranties and similar submittals required by the Contract Documents for delivery to the Owner and deliver all keys, manuals, record drawings and maintenance stocks to the Owner. The Construction Manager shall forward to the Architect a final Project Application for Payment upon compliance with the requirements of the Contract Documents.

§ 4.1.3 The Owner with the assistance of the Architect and the Construction Manager shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs for the final completion of the project not included in the cost of the work, 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 significantly increases or decreases, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Architect and the Construction Manager, shall may thereafter agree to a corresponding change in the Project's scope and quality to the extent necessary. Nothing herein shall obligate the Owner to agree to an increase in the Cost of the Work or construction costs or fees.

§ 4.1.4 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 reasonably rely on the accuracy of information and services furnished by the Owner but except to the extent the Construction Manager knows of any inaccuracy or as otherwise stated in Article 4.1.6, and shall exercise proper precautions relating to the safe performance of the Work. Notwithstanding the foregoing, the Construction Manager shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.6 If Documents provided by the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™ 2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement shall be provided for information and, if prepared by third parties, may not show the conditions at the Project site accurately. The Construction Manager shall use customary precaution relating to the performance of the Work. Notwithstanding the preceding sentences and the delivery of surveys or other documents and reports by the Owner, the Construction Manager shall perform all work in such a non-negligent manner so as to avoid damaging any utility lines, cables, pipes, or pipelines on the Property. The Construction Manager shall retain a third-party locate company to locate utility lines, pipes, and cables and shall be responsible for any damage done to such lines, cables, pipes and pipelines during the Work. The Owner shall promptly notify Construction Manager in the event it learns or discovers any of the documents contain any inaccuracies.

§ 4.1.7 Any additional tests, surveys, and reports reasonably requested the Construction Manager shall require the Owner's prior written approval.

§ 4.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests. The Owner is not responsible for determining and advising Architect and Construction Manager of special legal requirements relating to the Project that differ from those generally applicable to construction. The Construction Manager and Architect are responsible for retaining separate legal counsel to provide legal information and services related to their work.

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

Billed on a monthly basis at a cost and not to exceed twenty-eight thousand four hundred two and no/100 (\$28,402.00

Per RFP Submission Dated September 29, 2025

<u>Individual or Position</u>	<u>Rate</u>
<u>Project Executive – Cliff Garness –</u>	<u>\$157.00/HR</u>
<u>Pre-Construction Manager Curt Swets –</u>	<u>\$97.00/HR</u>
<u>Lead Estimator Trenton Pearce -</u>	<u>\$97.00/HR</u>
<u>Project Manager – Brooke Logan -</u>	<u>\$116.00/HR</u>
<u>Senior Preconstruction Manager – Jeremy Miller -</u>	<u>\$129.00/HR</u>
<u>Senior Superintendent – John Bales -</u>	<u>\$120.00/HR</u>
<u>Superintendent – Greg Darling</u>	<u>\$105.00/HR</u>
<u>MEP Coordinator – Lisa Lewis -</u>	<u>\$107.00/HR</u>
<u>Safety Coordinator – Adam Boyd -</u>	<u>\$110.00/HR</u>
<u>Administration – Rachel Alexander -</u>	<u>\$70.00/HR</u>

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within ~~(Six~~ (6) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid ~~(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.

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-6 % per annum

4.0%

4.0%

10 % Overhead and 5% Profit

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed ~~percent (-%) of~~ 100% the standard rental rate paid at the place of the Project.

N/A

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N/A

§ 6.1.7.1 The sum of the Cost of the Work as defined in Subparagraph 7.1 below, together with the Construction Manager's Fee, is guaranteed by the Construction Manager not to exceed any GMP Amendment, and subject only to additions approved in accordance with the Agreement and the General Conditions, including any amendments thereto, made a part hereof. Such maximum sum as adjusted by approved changes in the Work is referred to herein as the adjusted Guaranteed Maximum Price. Any costs or expenses that cause the adjusted Guaranteed Maximum Price to be exceeded shall be the sole responsibility of and paid by the Construction Manager without reimbursement by the Owner.

§ 6.1.7.2 Any cost savings shall accrue to the benefit of the Owner. The Construction Manager is not entitled to any bonus or incentive under this Agreement.

§ 6.2.1 Should the Construction Manager complete the Project for less than the Guaranteed Maximum Price, the remaining funds shall be credited to the Owner as a deduction from the Guaranteed Maximum Price.

§ 6.2.2 POTENTIALLY PRICE-IMPACTED MATERIAL. Certain markets providing essential materials to the Project are expected to experience significant, industry-wide economic fluctuation during the performance of this Agreement that may impact price of materials required for construction of the Project. This Section provides for a fair allocation of the risk of such market conditions between the Owner and the Construction Manager.

- .1 **BASELINE PRICE.** The Construction Manager's Guaranteed Maximum Price will be based upon market prices for materials as of the date of the Guaranteed Maximum Price Amendment ("Baseline Price").
- .2 **ADJUSTMENT IN BASELINE PRICE.** If during the course of the Project any materials required for construction of the Project experience an increase in their Baseline Price by more than five percent (5%), the Construction Manager may notify the Owner in writing, no later than ten (10) days from the date the materials are ordered, stating the basis for an equitable adjustment to the Guaranteed Maximum Price, pursuant to Article 7 of the General Conditions, and shall provide appropriate documentation substantiating such adjustment. An adjustment in the pricing for any material price escalation shall not include any amount for overhead and profit. In the event of an increase in any material prices, the Guaranteed Maximum Price shall be equitably adjusted to reflect such increase, but only: (a) to the extent the price of such materials exceeds one-hundred-five percent (105%) of the Baseline Price at the time the GMP Amendment was executed; and (b) for those materials ordered on, after, or within the 10 days preceding the date on which written notice of the adjustment in material prices is given.
- .3 No adjustment shall be made for any quantities of materials scheduled for delivery under the terms of the Agreement more than 10 days prior to the date on which written notice of the adjustment market price is given.
- .4 Payment, if any, for an adjustment shall be made in accordance with the terms of the Agreement.

.5 Compensation for any material escalation shall not be duplicated in any contingency amounts established under the terms of the Agreement.

.6 All adjustments in Baseline Price must be approved by the Owner in writing.

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work. All such changes under this provision to the scope of the project, contract time or overall budget shall be subject to the approval of the Owner's Board of Commissioners prior to the time the work is performed.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201-2017, General Conditions of the Contract for Construction, including any amendments thereto.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201-2017, General Conditions of the Contract for Construction, including any amendments thereto, or as otherwise provided in the Contract Documents.

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

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

§ 7.1.1 ~~The term "Cost of the Work" shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work~~ the aggregate total of all Subcontracts and Material Supply Contracts awarded for construction work in connection with the Project and any general conditions of the Construction Manager approved by the Owner in accordance with Article 2.2.1 above. The Cost of the Work does not include the Construction Manager's fee. All fees and costs, including the Cost of the Work, Construction Manager's fee, and any contracts awarded to the Construction Manager for construction work, shall not exceed the Guaranteed Maximum Price Amendment unless approved by the Owner in writing in accordance with the Contract Documents. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost. The Owner shall be deemed to have approved such costs only if the Construction Manager has provided the Owner with a written breakdown of the costs prior to incurring such costs, the approximate dollar amounts attributable thereto, and the Owner has approved such costs in writing.

<u>Cliff Garness, Project Executive</u>	<u>\$157.00/HR</u>
<u>Brooke Logan, Project Manager</u>	<u>\$116.00/HR</u>
<u>Casey Roen, Project Engineer</u>	<u>\$97.00/HR</u>
<u>Jeremy Miller, Senior Precon Manager</u>	<u>\$129.00/HR</u>
<u>Curt Swets, Precon Manager</u>	<u>\$107.00/HR</u>
<u>Trenton, Pearce, Lead Estimator</u>	<u>\$107.00/HR</u>

<u>John Bales, Senior Superintendent</u>	<u>\$120.00/HR</u>
<u>Greg Darling, Superintendent</u>	<u>\$105.00/HR</u>
<u>Adam Boyd, Safety Coordinator</u>	<u>\$110.00/HR</u>
<u>Rachel Alexander, Admin</u>	<u>\$70.00/HR »</u>

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

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement, including (i) payments made for invoices submitted by Construction Manager for bid package work performed as a Subcontractor; and (ii) payments made directly to materials suppliers or Subcontractors of any Subcontractor in order to obtain releases of liens from such material suppliers or Subcontractors.

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

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

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

~~§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable, including premiums for bonds requested by the Construction Manager with respect to any subcontractors with approval of the Owner. Costs related to insurance for the project shall be included as part of the General Conditions costs in accordance with the RFP solicitation documents with the exception of builders risk insurance (this is a separate fee outside the proposed general conditions). Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.~~

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

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

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

~~§ 7.6.54.1~~ The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201–2017, including any amendments thereto. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager's Fee or subject to the Guaranteed Maximum Price.

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

~~§ 7.6.76~~ Costs of document reproductions and delivery charges.

~~§ 7.6.87~~ Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

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

~~§ 7.6.40~~ Expenses Subject to the Owner's prior 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, with the Owner's prior approval.

~~§ 7.6.4410~~ That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

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

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

~~§ 7.7.4~~ The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201-2017, including any amendments thereto, or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

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

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~~§ 7.8.2~~ If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9. In the event Construction Manager is awarded a bid package scope of work, with Owner's written approval, Construction Manager's compensation for the bid package work shall be on the basis of the lump sum price approved by Owner for the bid package. Construction Manager shall invoice for any such bid package work as a Subcontractor, and payment to Construction Manager by Owner for such bid package work shall be based on Construction Manager's invoices as a Subcontractor.

~~§ 7.9~~ Costs Not To Be Reimbursed

- 1— Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically

provided in Section 7.2, or as may be provided in Article 14;

- .2— Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3— Expenses of the Construction Manager's principal office and offices other than the site office;
- .4— Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5— The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .6— Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7— Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8— Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .9— Costs for services incurred during the Preconstruction Phase;
- .10 Reimbursable costs not approved by the Owner; and
- .11 Delay damages or claims or storage costs without prior written approval by the Owner, unless awarded pursuant to binding dispute resolution in accordance with Article 15 of the General Conditions.

§ 8.3 The Construction Manager shall take advantage of all available discounts, rebates and refunds for supplies, materials, and equipment connected with the Work and which conform to the Contract Documents, which discounts, rebates, and refunds shall accrue to the benefit of the Owner.

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

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§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may ~~require~~request that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner subject to approval by the Owner which shall not be unreasonably withheld.

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

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

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§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the 25th day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 30th day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than ~~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.)

§ 11.1.3.1 Progress payments are due and payable to the provisions of Section 7.1.3 above unless within twenty-one (21) days after receipt of the request by the Owner or the person designated in the contract by the Owner to receive the payment request, the Owner provides the Construction Manager with a written statement containing specific items in the request for payment that are being disapproved by the Owner or Architect. The Owner may withhold amounts of any disapproved items. The Owner shall release remaining amounts owed as soon as such items have been corrected and approved.

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other such evidence required by the Owner or Architect to demonstrate that payments cash disbursements already made by the Construction Manager on account of the Cost of the Work equal or exceed (1) progress payments already received by the Construction Manager, plus; less (2) that portion of those payments attributable to the Construction Manager's Fee; plus (3) payrolls for the period covered by the present Application for Payment; less that portion of the progress payments attributable to the Construction Manager's Fee if requested by the Owner with the understanding that the Construction Manager shall maintain payroll records for the Project which shall be available to the Owner. Each Application for Payment shall also include a list, with backup data, of how each payment shall be spent, including a list detailing which subcontractors and suppliers will be paid out of funds paid by the Owner and the amount of such payments to subcontractors and suppliers, and in the next payment cycle, proof of each payment to Construction Manager's subcontractors and suppliers after payment. Prior to, or simultaneously with, the next payment cycle, Construction Manager shall furnish unconditional lien releases for each subcontractor or supplier paid under the previous payment cycle.

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§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values and any overrun or underrun in a line item may be balanced against an overrun or underrun in another line item with written approval from the Owner, as long as the total of the schedule of values remain with the GMP. Any amounts balanced in the schedule of values may only include Costs of the Work that are reimbursable under the terms of the Contract Documents.

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

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

- .1— That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
 - .2— That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
 - .3— That portion of Construction Change Directives that the Architect determines, in the Architect’s professional judgment, to be reasonably justified; and
 - .4— The Construction Manager’s Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager’s Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.
- .1— The aggregate of any amounts previously paid by the Owner;
 - .2— The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017, including any amendments thereto;
 - .3— Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
 - .4— For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017, including any amendments thereto;

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- .5— The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner’s auditors in such documentation; and
- .6— Retainage withheld pursuant to Section 11.1.8.

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five Percent (5%)

Pre-Construction Services Fees

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

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

To be discussed after the contractor achieves substantial complete on Phase 1 of the project.

§ 11.1.8.3 The retainage shall be released when the Project receives a certificate of occupancy and all Work has been accepted by the Owner and, if required, the federal, state, and/or local authority having jurisdiction.

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

§ 11.1.11.1 The Construction Manager shall develop and implement procedures for the timely review and processing of applications for payment by Subcontractors and Material Suppliers for progress and final payments.

§ 11.1.11.2 Based on the Construction Manager's observations and evaluations of each Subcontractor's and Material Supplier's application for payment, the Construction Manager shall review and certify the amounts due the respective Subcontractors and Material Suppliers and shall incorporate such certified amounts into the Application for Payment developed in accordance with this Section 11.

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§ 11.1.13 The Construction Manager's certification for payment shall constitute a representation to the Owner, based on the Construction Manager's determination at the site and on the data comprising the Subcontractor's and Material Supplier's applications for payment, that, to the best of the Construction Manager's knowledge, information and belief, the Work has progressed to the point indicated and 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 minor deviations from the Contract Documents correctable prior to completion and to specific qualifications expressed by the Construction Manager in writing. The issuance of a Certificate for Payment shall further constitute a representation that the various Subcontracts are entitled to payment in the amount certified.

§ 11.1.14 If the Owner is entitled damages or any other amounts provided in the Contract Documents, including clean-up fees, then the Owner shall be entitled to deduct such damages, amounts and fees due the Construction Manager at any time.

§ 11.1.15 The Owner shall, in accordance with sections §§ 15-50-101, 15-50-206, MCA, withhold one percent (1%) of all payments due to the Construction Manager and shall transmit that money to the Montana Department of Revenue.

- .1— the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, including any amendments thereto, and to satisfy other requirements, if any, which extend beyond final payment;
- .2— the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3— a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall ~~may~~ at its sole discretion conduct an audit of the Cost of the Work ~~or notify the Architect that it will not conduct an audit.~~

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

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be

entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017. ~~A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager including any amendments thereto.~~ 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.

Except as may otherwise be provide herein, final payment shall be made by the Owner to the Construction Manager when (1) this Agreement has been fully performed by the Construction Manager and all Work completed by the Subcontractors and Material Suppliers, except for their respective responsibilities to (a) correct nonconforming Work as provided in AIA Document A201 and (b) satisfy other requirements, if any, which necessarily survive final payment; (2) a final Application for Payment and a final accounting for the Cost of the Work and General Condition Expenses have been submitted by the Construction Manager and reviewed by the Owner and/or its accountants; and (3) a final Certificate for Payment has then been issued by the Architect.

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The final certificate of payment will not be issued until the punchlist is one hundred percent (100%) complete and all lien releases have been properly processed and submitted. Punchlist items incomplete following substantial completion will have retainage withheld up to 150% of the value of the work until complete. All other retainage of work complete and accepted will be released.

If Construction Manager fails or refuses to complete the Work, or has unsettled claims with Owner, then any Final Payment to Construction Manager shall be subject to deduction for such amounts as the Architect shall determine as the costs for completing incomplete Work and the value of unsettled claims. The amount of Final Payment shall be subtracted by amounts the Owner disputes or refuses or withholds payment.

§ 11.3 Interest

~~-%~~ 6 % per annum

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

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, including any amendments thereto, 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.

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For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, including any amendments thereto, the method of binding dispute resolution shall be as follows:

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

[~~—~~ << X >>] — Litigation in a court of competent jurisdiction the 13th Judicial Yellowstone County of Montana (Yellowstone County)

[« »]— Other: (Specify)

« »

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§ 12.3 Mediation

§ 12.3.1 Any claim, dispute or other matter in question arising out of or related to this Agreement may be mediated as set forth herein. If such matter relates to or is the subject of a lien arising out of the Construction Manager's services, the Construction Manager may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation, litigation or by binding dispute resolution.

§ 12.3.3 The mediator's fee and any filing fees shall be paid in equal shares by the parties to the mediation. The mediation shall be held at a place and time agreed to by the Owner and Construction Manager. In the event they cannot agree, then the mediator shall designate the place and time for the mediation. Agreements reached in mediation shall be enforceable as settlement agreements shall be filed in the 10th Judicial Yellowstone County Court of the State of Montana (Fergus County).

§ 12.3.4 Subject to any dispute resolution procedures required herein or if the parties have not otherwise resolved their claims, disputes or other matters pursuant to this Section 9.2, they may pursue enforcement of this Agreement in the

13th Judicial Yellowstone County Court of the State of Montana (Yellowstone County).

§ 12.3.5 The Construction Manager agrees to indemnify, defend and hold harmless the Owner and its Commissioners, officers, agents, and employees from and against any and all liability, damages, losses and costs (including, but not limited to, reasonable attorney fees) but only to the extent that such liability damages, losses and costs are caused by the negligence, recklessness, or intentional misconduct of the Construction Manager or those for whom the Construction Manager is legally liable in rendering services under this Agreement. The Construction Manager is not obligated to defend, indemnify or hold harmless the owner, or its Commissioners, officers, agents and employees, from liability, damages or costs caused by the acts, omissions, or misconduct of the Owner, anyone for whom the Owner is responsible, or any third party for whom the Construction Manager is not legally liable.

The Owner agrees to indemnify, defend and hold harmless the Construction Manager, and its members, partners, principals, shareholders and employees, from and against any and all liability, damages, losses and costs (including, but not limited to, reasonable attorney's fees) but only to the extent caused by the negligence, recklessness, or intentional misconduct of the Owner or those for whom the Owner is legally liable. The Owner is not obligated to defend, indemnify, or hold harmless the Construction Manager, or its members, partners, principals, shareholders and employees, from liability, damages or costs caused by the acts, omissions, or misconduct of the Construction Manager, anyone for whom the Construction Manager is responsible, or any third party for whom the Owner is not legally liable.

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

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

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

exceed the compensation set forth in Section 5.1.

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- .1— Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2— Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3— Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

Under no circumstances shall any amount beyond amounts that are tied to actual work performed be paid to the Construction Manager.

The Contract may be terminated by the Owner, or the Construction Manager as provided in Article 14 of AIA Document A201-2017, including any amendments thereto.

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

- .1— Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2— Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3— Subtract the aggregate of previous payments made by the Owner; and
- .4— Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201-2017, including any amendments thereto.

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§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201-2017, including any amendments thereto, then the Owner shall pay the Construction Manager a termination fee as follows:

Zero dollars (\$0)

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

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201-2017, including any amendments thereto. Where reference is made in this Agreement to a provision of AIA Document A201-2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 14.3.1 Preconstruction Phase Insurance

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The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost all phases of the Project.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than (\$) for each occurrence and (\$) in the aggregate for bodily injury and property damage. Insurance

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

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

Coverage

Insurance in accordance with attached Insurance Exhibit

Limits

Limits in accordance with attached Insurance Exhibit

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

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§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than (\$) each accident, (\$) each employee, and (\$) policy limit **3 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.**

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than (\$) per claim and (\$) in the aggregate **4 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.**

§ 14.3.1.5 The Construction Manager shall not cancel or reduce coverage under any policies of insurance required hereunder either before or after completion of the Work without written consent of the Owner.

§ 14.3.1.6 Other Insurance

(List below any other The carrying of insurance coverage to be provided by shall not be deemed to release the Construction Manager and/or in any applicable limits.) way diminish its liability, by way of indemnity or otherwise, as assumed by it under the Contract Documents.

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the **2 Bonds**

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in the Contract Documents. The Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1 provide performance and payment bonds in the amount of 100% of the total contract sum.

§ 14.4 Other provisions:

§ 14.4.1 The Construction Manager shall itself comply with and shall notify in writing the various Subcontractors of their obligations to comply with §18-2-406, MCA in terms of giving preference to the employment of bona fide Montana residents in the work it performs under this Agreement and in paying the standard prevailing wage rate of wages, including travel allowance and fringe benefits, in effect and applicable to the operations that are conducted in performing the Work on this Project. The Construction Manager will properly classify its employees and ensure that the various Subcontractors properly classify their respective employees in accordance with the most recent Montana prevailing wage rates as established by the Montana Department of Labor prior to commencing operations under this Agreement. A copy of the applicable prevailing wage rates must be contained in the Project Manual and are expressly incorporated herein by reference.

§ 14.3.2 Construction Phase

After execution of the Guaranteed Maximum Price Amendment, the Owner and 4.2 No waiver of any breach of any one of the agreements, terms, conditions or covenants of this Agreement by the Owner or the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™ 2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents be deemed to imply or constitute a waiver of any other agreement, term, condition or covenant of this Agreement. The failure of either party to insist on strict performance of any agreement, term, condition or covenant herein set forth, shall not constitute or be construed as a waiver of the rights of either or the other thereafter to enforce any other default of such agreement, term, condition or covenant; neither shall such failure to insist upon strict performance be deemed sufficient ground to enable either party to forgo or subvert or otherwise disregard any other agreement, term, condition or covenant of this Agreement.

§ 14.3.4.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™ 2019 Exhibit B, and elsewhere in the Contract Documents 3 If in any instance any provision hereof shall be determined to be invalid or unenforceable under any applicable law, such provision shall not apply in such instance, but the remaining provision shall be given effect in accordance with their terms.

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

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

§ 14.5 Other provisions:

4 This Agreement may be executed in several counterparts, and each such counterpart shall be deemed an original.

§ 14.4.5 Time is of the essence, and the Construction Manager agrees to proceed with the provision of services under this Agreement with due diligence and without delay, in order to meet the Owner's schedule of construction and occupancy. It is expressly agreed and understood between the parties that the project must reach Substantial Completion no later than the date agreed to in writing by Owner and Construction Manager with the advice of the Architect.

§ 14.4.6 In the event either party files suit to enforce their rights under this Agreement the prevailing party shall be entitled to recover its costs and attorney's fees from the other party, in addition to any other damages awarded by the

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court. It is understood and agreed that any suit filed to interpret or enforce any of the provisions of this Agreement shall be filed in the 13th Judicial Yellowstone County Court of the State of Montana (Yellowstone County).

§ 14.4.7 Any notices required or permitted under this Agreement or which any party elects to give shall be in writing and delivered either personally to the other party's authorized agent set forth on page 1 (or as changed by written notice); or by depositing such notice with the United States Postal Service, postage fully prepaid, to the person at the address set forth on page 1; by certified mail, return receipt requested; or to such other address as either party may later designate in writing. Any notice given by mail as herein provided shall be deemed given when deposited in the United States Mail;

§ 11.8 The Construction Manager shall not allow any liens to be filed against the Owner relating to the Work to be performed or labor or materials to be furnished under the Contract Documents. The Construction Manager shall indemnify and hold the Owner harmless from all liens, or claims of rights to enforce liens, against the Owner arising out of any work to be performed or labor or materials to be furnished under the Contract Documents. Neither Final Payment by the Owner nor acceptance of the Work shall constitute a waiver of this indemnity. If any lien or claim for lien shall at any time be filed, the Construction manager shall refund to the Owner all monies the Owner may be compelled to pay in discharging the lien including all costs and reasonable attorneys' fees.

- .1— AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2— AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed
- ~~.3— AIA Document A133™ 2019,~~
- .3 Exhibit ~~BD~~, Insurance and Bonds
- .4— AIA Document A201™-2017, including amendments thereto, General Conditions of the Contract for Construction
- .5— Building Information Modeling Exhibit, if completed:
- ~~.6—~~
- .5 Other Exhibits:
 - []— AIA Document E234™ 2019, Sustainable Projects Exhibit, Constructor Edition, dated as indicated below:
(Insert the date of the E234-2019 incorporated into this Agreement.)

[]—

[« »] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

- .7— Other documents, if any, listed below:

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Exhibit A – Sletten Proposal RFP

Exhibit B – County Insurance Requirements

Variable Information

PAGE 1

AGREEMENT made as of the 21st day of May in the year 2026

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Cliff Garness, 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 22:21:45 MDT on 05/26/2026 under Order No. 20250099332 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A133™ - 2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)