



CITY OF KETCHUM, IDAHO REGULAR KETCHUM CITY COUNCIL
Monday, March 02, 2020, 4:00 PM
480 East Avenue, North, Ketchum, Idaho

Agenda

- ROLL CALL
- CALL TO ORDER: By Mayor Neil Bradshaw
- COMMUNICATIONS FROM MAYOR AND COUNCILORS
 1. Proclamation Celebrating Idaho Woman's Day on March 13, 2020
 2. Proclamation Establishing April 1, 2020 as National Census Day
- COMMUNICATIONS FROM THE PUBLIC on matters not on the agenda (Comments will be kept to 3 minutes)
- CONSENT AGENDA: Note: **(ALL ACTION ITEMS)** The Council is asked to approve the following listed items by a single vote, except for any items that a Councilmember asks to be removed from the Consent Agenda and considered separately
 3. Approval of Minutes: Regular Meeting February 18, 2020
 4. Authorization and approval of the payroll register
 5. Authorization and approval of the disbursement of funds from the City's treasury for the payment of bills in the total sum of \$459,230.23 as presented by the Treasurer.
 6. Recommendation to approve Purchase Order #20446 with GC Systems for Valve Service - Water Superintendent Pat Cooley
 7. Recommendation to approve Purchase Order #20447 with Lane Pump to rebuild Pump and Motor - Water Superintendent Pat Cooley
 8. Recommendation to approve road closure on Main Street between Sun Valley Road and Second Street for special event – Special Event Manager Julian Tyo
 9. Recommendation to approve contracts with Sun Valley Company (20453), Sun Valley Events (20451), and Red's Meadow Resort, Inc. (20452) for Wagon Days Celebration – Assistant City Administrator Lisa Enourato
- PUBLIC HEARINGS AND DISCUSSIONS (Public comment and input taken on the following items)
 10. ACTION ITEM: Recommendation for the City Council to take the following actions: 1) Set a hearing date on the motion to reconsider findings of fact, conclusions of law and provide for notice on the matter, 2) Reconsideration of the Findings of Fact, Conclusions of Law and decisions entered on February 2, 2020 and 3) Consideration of administrative process and procedures for the reconsideration hearing--Director of Planning and Building John Gaeddert
 11. ACTION ITEM: Recommendation to Hold a Public Hearing and Approve the Readjustment of Lot Lines Application for the West Ketchum Residences Project - Director of Planning & Building John Gaeddert
 12. ACTION ITEM: Recommendation to approve Contract 20454 with Core Construction | Headwaters Construction LLC for pre-construction services - Mayor Neil Bradshaw
- STAFF AND COUNCIL COMMUNICATIONS (council deliberation, public comment not taken)
 13. ACTION ITEM: Discussion and direction to staff on FY 20 city procurement actions as related to sustainability goals - Grant Gager, Director, Finance & Internal Services

14. ACTION ITEM: Discussion and direction to staff on funding Wagon Days street party concert--
Assistant City Administrator Lisa Enourato

- EXECUTIVE SESSION

15. Discussion Pursuant to Idaho Code 74-206 (1) (c)

- ADJOURNMENT

If you need special accommodations, please contact the City of Ketchum in advance of the meeting.

This agenda is subject to revisions and additions. Revised portions of the agenda are underlined in bold.

Public information on agenda items is available in the Clerk's Office located at 480 East Ave. N. in Ketchum or by calling 726-3841.

Your participation and input is greatly appreciated. We would like to make this as easy as possible and familiarize you with the process. If you plan to speak, please follow the protocol below.

- Please come to the podium to speak.
- Stand approximately 4-6 inches from the microphone for best results in recording your comments.
- Begin by stating your name.
- Please avoid answering questions from audience members. All questions should come from City officials.
- Public comments will be limited by a time determined by the Mayor.
- You may not give your time to another speaker.
- If you plan to show a slide presentation or video, please provide a copy to the City Clerk by 4:00 p.m. on the meeting date.

Please note that all people may speak at public hearings.

Public comment on other agenda items is at the discretion of the Mayor and City Council.

Public comments may also be sent via email to participate@ketchumidaho.org

Visit www.ketchumidaho.org and sign up for notifications on agendas, meeting packets, dates and more.

Like us on [Facebook](#) and follow us on [Twitter](#).

Thank you for your participation.

We look forward to hearing from you



City of Ketchum

Celebrate Idaho Women's Day Proclamation

- Whereas,** in 1896, Idaho became the fourth state to give women the right to vote, joining the ranks of Wyoming, Utah and Colorado; and
- Whereas,** between 1896 and 1920, Idaho suffragists supported others from across the country in the fight for national suffrage; and
- Whereas,** in 1915, Pennsylvania suffragists cast a replica Liberty Bell – known as the Justice Bell – as a symbol of their state's suffrage efforts, and between 1915 and 1920 toured the Justice Bell across the country and vowed that it would remain silent until they secured the right to vote; and
- Whereas,** by 1920, 36 states ratified the 19th Amendment to the U.S. Constitution, granting women suffrage nationally; and
- Whereas,** the Pennsylvania suffragists rang the Justice Bell for the first time on September 25, 1920, in a grand celebration in Philadelphia; and
- Whereas,** in February 2020, the Idaho Legislature established March 14, as Idaho Women's Day and today, March 13, we ring bells across the state as a symbolic gesture to unite the citizens of Idaho to celebrate the 100th anniversary of the 19th Amendment, and commemorate the valiant struggle for national suffrage on Celebrate Idaho Women's Day.

NOW THEREFORE, I, Neil Bradshaw, Mayor of the City of Ketchum, do hereby proclaim March 13, 2020 as *Celebrate Idaho Women's Day* in the City of Ketchum. All citizens are urged to honor and recognize women leaders of the past and present, foster women leaders of the future, advance women's leadership in business and politics, and encourage women to vote.

JOINT PROCLAMATION

PROCLAIMING APRIL 1 AS NATIONAL CENSUS DAY

WHEREAS, an up-to-date and accurate census is critical in ensuring that our state and cities receive their fair share of annual funds which help improve transportation, schools, hospitals, public works and other vital programs; and

WHEREAS, Idaho received more than \$2.4 billion in federal grants, and those funds were allocated to communities based on the previous census; and

WHEREAS, each person that was counted allotted Idaho \$1,473 per person, per year; and

WHEREAS, census data helps shape where to locate schools, offices and stores; and

WHEREAS, census data helps local governments provide greater public safety and emergency preparedness; and

WHEREAS, census data ensures fair Congressional representation in the U.S. House of Representatives and in redistricting state legislatures, county and city councils, and school and voting districts; and

WHEREAS, your data is safe, confidential and protected by federal law; and

WHEREAS, the 2020 Census will create jobs in communities; and

WHEREAS, everyone is counted every ten years as mandated by the U.S. Constitution.

NOW, THEREFORE, WE THE UNDERSIGNED do hereby proclaim April 1, 2020 as

NATIONAL CENSUS DAY

in Blaine County, including the cities of Sun Valley, Ketchum, Hailey, Bellevue and Carey, and encourage all people in our cities and across our state in this special observance.

IN WITNESS WHEREOF, we have hereunto set our hands on this _____ day of March, in the year two thousand and twenty.

Angenie McCleary, Commissioner, Blaine County

Peter M. Hendricks, Mayor of Sun Valley

Neil Bradshaw, Mayor of Ketchum

Martha Burke, Mayor of Hailey

Ned Burns, Mayor of Bellevue

Randy Patterson, Mayor of Carey



CITY OF KETCHUM, IDAHO REGULAR CITY COUNCIL MEETING

Tuesday, February 18, 2020, 4:00 PM.

480 East Avenue, North, Ketchum, Idaho

AGENDA

- CALL TO ORDER: By Mayor Neil Bradshaw

Mayor Neil Bradshaw called the meeting to order at 4:00 p.m.

- ROLL CALL

PRESENT

Mayor Neil Bradshaw

Council President Amanda Breen

Councilor Michael David

Councilor Courtney Hamilton

Councilor Jim Slanetz

- COMMUNICATIONS FROM MAYOR AND COUNCILORS

Mayor Bradshaw thanked the community for being welcoming to the visitors

- COMMUNICATIONS FROM THE PUBLIC on matters not on the agenda (Comments will be kept to 3 minutes)

Mayor opened the meeting for public comment

Leslie Manookian asked council to uphold their oaths to protect the community even if that is against the federal government. She referenced the FCC and what they are supposed to do and talked about the taxes that have been paid and where those funds have been going over the last 15 years. She talked about 5g being unsafe and advised the FCC is currently being sued and requested the local representatives stand up for the community's rights.

Jim Hungleman, Ketchum resident, advised it breaks his heart to see our community in this situation. He talked about wireless being part of all our lives and about the unknown and the information out there. He talked about all that has been done throughout Blaine County and advised that the public disagrees with legal counsel. He requested council proceed with caution and requested council proclaim a month of awareness.

Marcia Hart requested a stay of action until they are sure of safety. She talked about a handout she distributed at tonight's meeting. She talked about radio frequency that already exists and cautioned the council of future problems the public will encounter from 5g. She asked council to continue to research what can be done. Marcia Hart explained that she does not have a problem with fiber optic, but the problem is with wifi.

Leslie Manookian spoke again saying she requests we slow the process down.

Ananda Kriya said 5g is the Trojan Horse and we must proceed with caution.

Mayor Neil Bradshaw closed public comment.

Mayor Neil Bradshaw advised the public that Council cannot discuss items that are not on the agenda. He advised that this is a big issue throughout the valley. He read his comments aloud and advised that they are posted under public comment on the city website. He talked about what the council has control over. He appreciates the

comments received and advised that this will be an ongoing discussion He gave suggestions as to how the City will move forward with this topic.

- **CONSENT AGENDA:** Note: **(ALL ACTION ITEMS)** The Council is asked to approve the following listed items by a single vote, except for any items that a Councilmember asks to be removed from the Consent Agenda and considered separately

1. Approval of Minutes: Regular Meeting February 3, 2020

Motion to approve minutes.

Motion made by Councilor Slanetz, Seconded by Councilor Hamilton

Voting Yea: Council President Breen, Councilor David, Councilor Hamilton, Councilor Slanetz

2. Authorization and approval of the payroll register
3. Authorization and approval of the disbursement of funds from the City's treasury for the payment of bills in the total sum of \$574,693.53 as presented by the Treasurer.

Councilor Courtney Hamilton questioned billings for previous year being on this approval register. Director of Finance and Internal Services Grant Gager advised that the City has been working with Granicus on the current system and that they had stopped sending bills for a period of time and those expenses are now having to come out of this year's budget. He advised that this item may come up again if we open the budget.

Motion to approve the bills

Motion made by Councilor Hamilton, Seconded by Councilor Slanetz

Voting Yea: Council President Breen, Councilor David, Councilor Hamilton, Councilor Slanetz

4. Monthly Financial State of the City - Director of Finance & Internal Services Grant Gager
5. Recommendation to Extend Contract 20448 with S&C Associates for engineering services--City Administrator Suzanne Frick

Mayor Neil Bradshaw asked for approval of the consent agenda.

Councilor Courtney Hamilton pulled items 1 and 3.

Motion to approve consent agenda items 2, 4, and 5.

Motion made by Councilor Hamilton, Seconded by Council President Breen

Voting Yea: Council President Breen, Councilor David, Councilor Hamilton, Councilor Slanetz

- **PUBLIC HEARINGS AND DISCUSSIONS** (Public comment and input taken on the following items)
 6. **ACTION ITEM:** Recommendation to Hold a Public Hearing and Approve the Crossbuck Townhomes Lot 3A and 4A Final Plat - Director of Planning & Building John Gaeddert

Mayor Bradshaw asked for public comment. There was none.

Mayor Neil Bradshaw explained the Final Plat before the Council

Motion to approve the Crossbuck Townhomes Lot 3A and 4A Final Plat subject to City Issuance of Certificate of Occupancy for the Unit on Lot 3A and the Unit on Lot 4A.

Motion made by Councilor Slanetz, Seconded by Council President Breen

Voting Yea: Council President Breen, Councilor David, Councilor Hamilton, Councilor Slanetz

7. ACTION ITEM: Recommendation to Hold a Public Hearing and Approve the Readjustment of Lot Lines Application for the West Ketchum Residences Project - Director of Planning & Building John Gaeddert

Mayor Neil Bradshaw explained that there is a new condition regarding water rights being transferred to the City. There is an additional condition that will be added.

Director of Planning & Building John Gaeddert explained Ord. 1124 advising that condition #8 is being added.

Mayor Neil Bradshaw asked for public comment. There was none.

Councilor Jim Slanetz questioned if there are sidewalks on Bird Dr. He recollects that was a condition in the past. Director of Planning & Building John Gaeddert suggested continuing this public hearing to the next council meeting to do the research and explained how this project will be moving forward.

Motion to continue this discussion to the March 2, 2020 Council meeting.

Motion made by Councilor Hamilton, Seconded by Councilor Slanetz

Voting Yea: Council President Breen, Councilor David, Councilor Hamilton, Councilor Slanetz

8. ACTION ITEM: Consideration of Ordinance 1206 authorizing Sale of Bonds - Director of Finance & Internal Services Grant Gager

Director of Finance & Internal Services Gager explained Ordinance 1206 before them. Council Jim Slanetz questioned how the competitive bid process works and the electronic system.

Mayor Neil Bradshaw advised that he and Director of Finance & Internal Services Grant Gager met with the rating agency and explained that this is a housekeeping item. He talked about the bond rating agency and what he is expecting and advised that he is optimistic that it will be a little lower.

Mayor Bradshaw opened the meeting for public comment. There was none.

Council President Amanda Breen advised that on page 143 her title was incorrect. Director of Finance and Internal Services Grant Gager will correct the document.

Motion to waive the 2nd and 3rd readings of Ordinance 1206 and to read by title only.

Motion made by Councilor Hamilton, Seconded by Council President Breen

Voting Yea: Council President Breen, Councilor David, Councilor Hamilton, Councilor Slanetz

Michael David read the title aloud as follows: AN ORDINANCE OF THE CITY OF KETCHUM, BLAINE COUNTY, STATE OF IDAHO, AUTHORIZING THE ISSUANCE AND SALE OF UP TO \$11,500,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS, SERIES 2020; PROVIDING FOR THE DATE, FORM, MATURITY, AND DESIGNATION OF SAID BONDS; AUTHORIZING A REQUEST FOR PURCHASE PROPOSALS FOR SAID BONDS BY A NOTICE OF SALE AND OFFICIAL STATEMENT FOR THE BONDS; PROVIDING FOR LIMITATION FOR THE RATE OF INTEREST ON, PRINCIPAL AMOUNT OF AND MATURITIES OF SAID BONDS; PROVIDING FOR THE PAYMENT OF PRINCIPAL OF AND INTEREST ON SAID BONDS; PROVIDING FOR THE REGISTRATION AND AUTHENTICATION OF SAID BONDS; SETTING THE TIME, DATE, AND PLACE OF SALE OF SAID BONDS; PROVIDING FOR THE PURCHASE OF THE BONDS AND PROVIDING FOR CONDITIONS OF ACCEPTANCE OF A PURCHASE PROPOSAL FOR THE BONDS; PROVIDING FOR THE PAYMENT OF PRINCIPAL OF AND INTEREST ON SAID BONDS BY ANNUAL LEVIES OF TAXES; CREATING CERTAIN FUNDS AND ACCOUNTS; PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO; PROVIDING FOR A SEVERANCE CLAUSE; AND PROVIDING AN EFFECTIVE DATE AND WAIVING ANY REQUIREMENT FOR THREE SEPARATE READINGS OF THE ORDINANCE.

Motion to approve Ordinance 1206 authorizing the issuance and sale of bonds as previously read by Michael David

Motion made by Councilor Hamilton, Seconded by Councilor Slanetz

Voting Yea: Council President Breen, Councilor David, Councilor Hamilton, Councilor Slanetz

- STAFF AND COUNCIL COMMUNICATIONS (council deliberation, public comment not taken)
- EXECUTIVE SESSION

9. Discussion Pursuant to 74-206 (1)(f)

Motion to go into Executive Session for discussion pursuant to 74-206 (1) (f)

Motion made by Councilor Hamilton, Seconded by Council President Breen.

Voting Yea: Council President Breen, Councilor David, Councilor Hamilton, Councilor Slanetz

Came out of Executive Session at 5:27

- ADJOURNMENT

Motion to adjourn at 5:27

Motion made by Councilor Hamilton, Seconded by Council President Breen

Voting Yea: Council President Breen, Councilor Hamilton Councilor Slanetz, Councilor David

Neil Bradshaw, Mayor

Robin Crotty, City Clerk

Report Criteria:

Invoices with totals above \$0 included.

Paid and unpaid invoices included.

[Report].GL Account Number = "0110000000"- "9648008200", "9910000000"- "9911810000"

Invoice Detail.Voided = No,Yes

Vendor Name	Invoice Number	Description	Net Invoice Amount
GENERAL FUND			
01-3700-3600 REFUNDS & REIMBURSEMENTS			
CARDEN, DELILAH	022420	Monthly Parking Pass Refund	120.00
Total :			120.00
LEGISLATIVE & EXECUTIVE			
01-4110-2515 VISION REIMBURSEMENT ACCT(HRA)			
STARLEY-LEAVITT INS. AGENCY	626907	626907 040120	45.00
01-4110-3100 OFFICE SUPPLIES & POSTAGE			
CHATEAU DRUG CENTER	2194721	Pens	3.79
Total LEGISLATIVE & EXECUTIVE:			48.79
ADMINISTRATIVE SERVICES			
01-4150-2515 VISION REIMBURSEMENT ACCT(HRA)			
STARLEY-LEAVITT INS. AGENCY	626907	626907 040120	63.00
01-4150-3100 OFFICE SUPPLIES & POSTAGE			
COPY & PRINT, L.L.C.	101507	ABC Divider	24.99
COPY & PRINT, L.L.C.	OUT-905	Office Supplies	124.03
COPY & PRINT, L.L.C.	OUT-916	Highlighters	2.50
GEM STATE PAPER & SUPPLY	1019861	Paper Supplies	61.85
TREASURE VALLEY COFFEE INC	2160 06593709	Spring Water	7.95
01-4150-4200 PROFESSIONAL SERVICES			
SENTINEL FIRE & SECURITY, IN	51527	2347 - Atkinsons Park	93.00
SENTINEL FIRE & SECURITY, IN	51752	4784 - 480 East Ave.	93.00
WESTERN RECORDS DESTRUCT	0474384	January Records Destruction	45.00
01-4150-4900 PERSONNEL TRAINING/TRAVEL/MTG			
PERRY'S	30026	Meeting Sandwiches	172.65
01-4150-5100 TELEPHONE & COMMUNICATIONS			
CENTURY LINK	2087264135 02	2087264135 021320	966.47
CENTURY LINK	2087265574 02	2087265574 021320	51.66
SYRINGA NETWORKS, LLC	19DEC0401	19DEC0401	3,000.00
SYRINGA NETWORKS, LLC	20FEB0395	20FEB0395	3,000.00
VERIZON WIRELESS	365459737 021	365459737 021320	42.88
VERIZON WIRELESS	965494438 021	965494438 021020	47.88
VERIZON WIRELESS	965494438 021	965494438 021020	42.88
01-4150-5150 COMMUNICATIONS			
SNEE, MOLLY	2002	February Retainer Fee	4,500.00
01-4150-5200 UTILITIES			
IDAHO POWER	2203990334 02	2203990334 021120	61.84

Vendor Name	Invoice Number	Description	Net Invoice Amount
IDAHO POWER	2206570869 02	2206570869 021120	16.42
01-4150-6500 CONTRACTS FOR SERVICES			
S & C ASSOCIATES LLC	1562 - 1578	19-1037	165.00
S & C ASSOCIATES LLC	1562 - 1578	19-1041	110.00
Total ADMINISTRATIVE SERVICES:			12,693.00
LEGAL			
01-4160-4270 CITY PROSECUTOR			
ALLINGTON, ESQ., FREDERICK	120260	Monthly Prosecutor Payment	3,769.92
Total LEGAL:			3,769.92
PLANNING & BUILDING			
01-4170-2515 VISION REIMBURSEMENT ACCT(HRA)			
STARLEY-LEAVITT INS. AGENCY	626907	626907 040120	36.00
01-4170-4200 PROFESSIONAL SERVICES			
S & C ASSOCIATES LLC	1562 - 1578	20-1003	110.00
S & C ASSOCIATES LLC	1562 - 1578	20-1004	110.00
S & C ASSOCIATES LLC	1562 - 1578	20-1005	330.00
S & C ASSOCIATES LLC	1562 - 1578	20-1006	110.00
S & C ASSOCIATES LLC	1562 - 1578	20-1007	165.00
S & C ASSOCIATES LLC	1562 - 1578	19-1010	440.00
S & C ASSOCIATES LLC	1562 - 1578	19-1042	110.00
S & C ASSOCIATES LLC	1562 - 1578	19-1074	110.00
HARMONY DESIGN & ENGINEE	19895	Engineering	343.75
Total PLANNING & BUILDING:			1,864.75
NON-DEPARTMENTAL			
01-4193-6601 MASTER TRANSPORTATION PLAN			
HDR ENGINEERING, INC.	1200247163	Mater Transportation Plan #12	6,845.05
S & C ASSOCIATES LLC	1562 - 1578	17-1009	495.00
Total NON-DEPARTMENTAL:			7,340.05
FACILITY MAINTENANCE			
01-4194-2515 VISION REIMBURSEMENT ACCT(HRA)			
STARLEY-LEAVITT INS. AGENCY	626907	626907 040120	27.00
01-4194-3200 OPERATING SUPPLIES			
GEM STATE PAPER & SUPPLY	1019528	Paper Supplies	304.00
01-4194-3500 MOTOR FUELS & LUBRICANTS			
NAPA AUTO PARTS	003854	Hydraulic Oil	39.99
UNITED OIL	932736	38950 021520	192.98
01-4194-4200 PROFESSIONAL SERVICES			
BIG WOOD LANDSCAPE, INC.	21812	Snow Removal Town Square	2,800.00
BIG WOOD LANDSCAPE, INC.	21813	Snow Removal Police Station Alley	210.00
BIG WOOD LANDSCAPE, INC.	21815	Snow Removal Town Square Alley	280.00
BIG WOOD LANDSCAPE, INC.	21816	Snow Removal 4th St. Pushing	3,512.50

Vendor Name	Invoice Number	Description	Net Invoice Amount
BIG WOOD LANDSCAPE, INC.	21818	Snow Removal 2nd St. Parking Sidewalks	973.00
BIG WOOD LANDSCAPE, INC.	21820	Snow Removal 4th St. to Walnut	987.50
BIG WOOD LANDSCAPE, INC.	21821	Snow Removal 6th St. & Leadville	982.25
BIG WOOD LANDSCAPE, INC.	21822	Snow Removal Cimino Park	1,069.00
BIG WOOD LANDSCAPE, INC.	21823	Snow Removal City Maintenance Yard	908.75
BIG WOOD LANDSCAPE, INC.	21824	Snow Removal Forest Service Park	948.00
BIG WOOD LANDSCAPE, INC.	21825	Snow Removal KTS Exterior Sidewalks	1,060.50
BIG WOOD LANDSCAPE, INC.	21826	Snow Removal KTS Interior	998.00
BIG WOOD LANDSCAPE, INC.	21827	Snow Removal OWM	911.50
EVANS PLUMBING INC	96403	Fan Replacement	903.89

01-4194-5200 UTILITIES

IDAHO POWER	2201272487 02	2201272487 022020	147.57
IDAHO POWER	2203313446 02	2203313446 021020	5.29
IDAHO POWER	2203538992 02	2203538992 022020	125.48

01-4194-6000 REPAIR & MAINT-AUTOMOTIVE EQUI

CAR DOCTOR INC.	7453	Serp Belt	128.04
RIVER RUN AUTO PARTS	6538-150702	Wiper Blades	21.90
RIVER RUN AUTO PARTS	6538-150744	Auto Belt Spray	5.99
RIVER RUN AUTO PARTS	6538-150832	Seat Covers	263.95

01-4194-6100 REPAIR & MAINT--MACHINERY & EQ

SAWTOOTH WOOD PRODUCTS, I	0000117780	Spark Plug / Gasket	76.13
SAWTOOTH WOOD PRODUCTS, I	0000117781	Service Handheld Blower	69.89
SAWTOOTH WOOD PRODUCTS, I	0000117782	Blower Service	69.89
STOTZ EQUIPMENT	039682	Gator Side Mirror	33.65

01-4194-6950 MAINTENANCE

A.C. HOUSTON LUMBER CO.	2002-603722	Supplies	56.58
A.C. HOUSTON LUMBER CO.	2002-604276	Respirator Masks	50.70
A.C. HOUSTON LUMBER CO.	2002-605999	Door Latch	4.39
A.C. HOUSTON LUMBER CO.	2002-606143	Water Station Wood	41.28
A.C. HOUSTON LUMBER CO.	2002-606199	Tool Box	13.69
A.C. HOUSTON LUMBER CO.	2002-606347	2x6	8.60
CHATEAU DRUG CENTER	2186827	Supplies	1.42
CHATEAU DRUG CENTER	2187343	Supplies	23.73
CHATEAU DRUG CENTER	2187592	Door Sweeps	15.18
CHATEAU DRUG CENTER	2188022	Broom	12.34

Total FACILITY MAINTENANCE:

18,284.55

POLICE**01-4210-3200 OPERATING SUPPLIES**

CHATEAU DRUG CENTER	2190140	Sign Supplies	17.73
---------------------	---------	---------------	-------

01-4210-3620 PARKING OPS EQUIPMENT FEES

VERIZON WIRELESS	965494438 021	965494438 021020	42.88
VERIZON WIRELESS	965494438 021	965494438 021020	42.88

01-4210-4250 PROF.SERVICES-BCSO CONTRACT

BLAINE COUNTY CLERK/RECOR	201026	BCSO Law Enforcement Services	115,041.17
---------------------------	--------	-------------------------------	------------

Total POLICE:

115,144.66

FIRE & RESCUE

Vendor Name	Invoice Number	Description	Net Invoice Amount
01-4230-2515 VISION REIMBURSEMENT ACCT(HRA)			
STARLEY-LEAVITT INS. AGENCY	626907	626907 040120	117.00
01-4230-3200 OPERATING SUPPLIES FIRE			
A.C. HOUSTON LUMBER CO.	2002-606318	Bucket Lids	2.29
ATKINSONS' MARKET	01299012	Coffee	13.77
CHATEAU DRUG CENTER	2192858	Supplies	8.07
CONSOLIDATED ELECTRICAL DI	3755-680985	250' Cord and Plugs	104.79
01-4230-3210 OPERATING SUPPLIES EMS			
A.C. HOUSTON LUMBER CO.	2002-606318	Bucket Lids	2.29
ATKINSONS' MARKET	01299012	Coffee	13.77
BOUNDTREE MEDICAL	83514783	Medical Supplies	1,138.86
CHATEAU DRUG CENTER	2192858	Supplies	8.06
HENRY SCHEIN	74087072	Medical Supplies	154.14
01-4230-3500 MOTOR FUELS & LUBRICANTS FIRE			
UNITED OIL	932616	37267 021520	121.19
01-4230-3510 MOTOR FUELS & LUBRICANTS EMS			
UNITED OIL	932616	37267 021520	153.84
01-4230-4900 TRAINING/TRAVEL/MTG FIRE			
A.C. HOUSTON LUMBER CO.	2002-605857	Dowels for Door Prop	42.90
A.C. HOUSTON LUMBER CO.	2002-606682	Dowel Rods	41.90
01-4230-4910 TRAINING EMS			
AIARE	OR10475	39 Student Avalanche Training	570.00
01-4230-4920 TRAINING-FACILITY			
COX WIRELESS	047339201 020	047339201 020720	99.79
01-4230-5100 TELEPHONE & COMMUNICATION FIRE			
VERIZON WIRELESS	765494480 021	765494480 021320	220.15
01-4230-6000 REPAIR & MAINT-AUTO EQUIP FIRE			
ALSCO - AMERICAN LINEN DIVI	LBO11780232	5109 021720	29.75
CHATEAU DRUG CENTER	2190157	Power Block	28.49
KETCHUM AUTOMOTIVE INC.	86644	Mount and Balance Tires	88.00
KETCHUM AUTOMOTIVE INC.	87278	F250 Battery	224.85
RESCUE NORTHWEST	4517	Ladderline Parts	99.62
01-4230-6100 REPAIR & MAINT--MACHINERY & EQ			
MUNICIPAL EMERGENCY SERIC	IN1428967	Ratchet Headbands	127.10
CURTIS TOOLS FOR HEROES	INV362080	Aircheck	155.00
Total FIRE & RESCUE:			3,565.62

STREET**01-4310-2515 VISION REIMBURSEMENT ACCT(HRA)**

STARLEY-LEAVITT INS. AGENCY	626907	626907 040120	81.00
-----------------------------	--------	---------------	-------

01-4310-3200 OPERATING SUPPLIES

A.C. HOUSTON LUMBER CO.	2002-604900	Shed Floor Wash	7.29
GEM STATE PAPER & SUPPLY	1019810	Paper Supplies	118.50

Vendor Name	Invoice Number	Description	Net Invoice Amount
01-4310-3400 MINOR EQUIPMENT			
NAPA AUTO PARTS	004160	Respirator	28.00
01-4310-3500 MOTOR FUELS & LUBRICANTS			
UNITED OIL	932618	37269 021520	2,652.20
01-4310-4200 PROFESSIONAL SERVICES			
BIG WOOD LANDSCAPE, INC.	21828	Snow Removal Neil's Way	1,202.50
CENTRAL DRUG SYSTEM, INC.	304866	Testing & Fees	94.00
WESTERN STATES CAT	IN001222139	Dozer Rental	5,734.75
01-4310-5100 TELEPHONE & COMMUNICATIONS			
VERIZON WIRELESS	365459737 021	365459737 021320	88.76
01-4310-6100 REPAIR & MAINT--MACHINERY & EQ			
A.C. HOUSTON LUMBER CO.	2002-606111	Clear Vinyl for Hot Patch	3.18
COLOR HAUS, INC.	230640	Paint Thinner	10.09
FASTENAL COMPANY	IDJER88621	Toggle Clamp	22.98
LES SCHWAB	11700611507	F550 New Wheels	1,150.44
NAPA AUTO PARTS	003854	Hydraulic Oil	39.99
NAPA AUTO PARTS	004161	Hotpatch Wire	170.00
NAPA AUTO PARTS	004639	F550 Filters	70.77
NAPA AUTO PARTS	004685	Oil Filter	13.45
NAPA AUTO PARTS	512951	Batteries	373.58
NAPA AUTO PARTS	524287	Battery	282.18
PLATT ELECTRIC SUPPLY	0D46998	Welder Plug and Cable	129.70
RIVER RUN AUTO PARTS	6538-150823	Grader Parts	14.23
RIVER RUN AUTO PARTS	6538-150923	Hotpatcher Part	22.79
WESTERN STATES CAT	IN001216669	Valve	48.84
WESTERN STATES CAT	IN001221100	Edge	213.12
WESTERN STATES CAT	IN001221126	Grader Gaskets	9.72
WESTERN STATES CAT	IN001221133	Grader Compresor	1,705.03
WESTERN STATES CAT	IN001222408	Grader Valve	112.82
WESTERN STATES CAT	IN001222418	Grader Parts	813.75
01-4310-6910 OTHER PURCHASED SERVICES			
ALSCO - AMERICAN LINEN DIVI	LBO11779828	5831 021420	48.11
ALSCO - AMERICAN LINEN DIVI	LBO11781716	5831 022120	48.11
TREASURE VALLEY COFFEE INC	2160 06593086	COFFEE and Tea	98.79
01-4310-6930 STREET LIGHTING			
IDAHO POWER	2200059315 02	2200059315 021020	5.29
IDAHO POWER	2200506786 02	2200506786 021020	20.73
IDAHO POWER	2201013857 02	2201013857 022020	13.80
IDAHO POWER	2201174667 02	2201174667 021020	14.65
IDAHO POWER	2202627564 02	2202627564 021020	24.66
IDAHO POWER	2203027632 02	2203027632 021020	5.29
IDAHO POWER	2203855230 02	2203855230 022020	110.30
IDAHO POWER	2204535385 02	2204535385 022020	99.63
IDAHO POWER	2205963446 02	2205963446 021020	53.61
IDAHO POWER	2206773224 02	2206773224 022020	5.29
RIVER RUN AUTO PARTS	6538-150924	Solar Light	419.70
01-4310-6950 MAINTENANCE & IMPROVEMENTS			
COLOR HAUS, INC.	230437	Floor Paint Supplies	403.45
COLOR HAUS, INC.	230694	Paint Supplies	110.85
COLOR HAUS, INC.	230754	Street Floor Paint	45.92

Vendor Name	Invoice Number	Description	Net Invoice Amount
COLOR HAUS, INC.	230767	Floor Paint	4.97
WALKER SAND AND GRAVEL	712865	Imported Clean Fill	178.57
Total STREET:			16,925.38

RECREATION**01-4510-2515 VISION REIMBURSEMENT ACCT(HRA)**

STARLEY-LEAVITT INS. AGENCY	626907	626907 040120	36.00
-----------------------------	--------	---------------	-------

01-4510-3300 RESALE ITEMS-CONCESSION SUPPLY

SYSCO	34390	Concessions	262.05
-------	-------	-------------	--------

01-4510-3500 MOTOR FUELS & LUBRICANTS

LUTZ RENTALS	104121-1	Propane	47.89
LUTZ RENTALS	104294-1	Propane	39.00
UNITED OIL	932617	37268 021520	25.93

01-4510-5200 UTILITIES

IDAHO POWER	2206452274 02	2206452274 022020	317.72
-------------	---------------	-------------------	--------

Total RECREATION: 728.59

Total GENERAL FUND: 180,485.31

WAGON DAYS FUND**WAGON DAYS EXPENDITURES****02-4530-4200 PROFESSIONAL SERVICES**

SUN VALLEY EVENTS	022120	March 2020 Event Contract	3,125.00
-------------------	--------	---------------------------	----------

Total WAGON DAYS EXPENDITURES: 3,125.00

Total WAGON DAYS FUND: 3,125.00

GENERAL CAPITAL IMPROVEMENT FD**GENERAL CIP EXPENDITURES****03-4193-7190 SIDEWALK/LIGHTING**

GALENA ENGINEERING, INC.	20297 020120	20297 020120	11,405.00
S & C ASSOCIATES LLC	1562 - 1578	18-1037	275.00
S & C ASSOCIATES LLC	1562 - 1578	19-1043	880.00

03-4193-7400 COMPUTER/COPIER LEASING

DELL FINANCIAL SERVICES	80315875	contract for computers	750.05
-------------------------	----------	------------------------	--------

Total GENERAL CIP EXPENDITURES: 13,310.05

Total GENERAL CAPITAL IMPROVEMENT FD: 13,310.05

ORIGINAL LOT FUND**ORIGINAL LOT TAX****22-4910-6040 SUN VALLEY MARKETING ALLIANCE**

VISIT SUN VALLEY	55	Monthly Payment per contract	33,333.33
------------------	----	------------------------------	-----------

22-4910-6060 EVENTS/PROMOTIONS

ENOURATO, LISA	022620	Water Station Materials Reimbursement	149.96
----------------	--------	---------------------------------------	--------

Vendor Name	Invoice Number	Description	Net Invoice Amount
Total ORIGINAL LOT TAX:			33,483.29
Total ORIGINAL LOT FUND:			33,483.29
IN-LIEU HOUSING FUND			
IN-LIEU HOUSING EXPENDITURES			
52-4410-7115 AFFORDABLE WORKFORCE HOUSING			
KETCHUM COMMUNITY DEVEL	121819	2019 Tax Credit Expenses	32,639.47
KETCHUM PDX LLC	022420	Contract 20202	175,406.00
Total IN-LIEU HOUSING EXPENDITURES:			208,045.47
Total IN-LIEU HOUSING FUND:			208,045.47
WATER FUND			
WATER EXPENDITURES			
63-4340-2515 VISION REIMBURSEMENT ACCT(HRA)			
STARLEY-LEAVITT INS. AGENCY	626907	626907 040120	27.00
63-4340-3120 DATA PROCESSING			
BILLING DOCUMENT SPECIALIS	57281	Utilities Billing	434.65
63-4340-3200 OPERATING SUPPLIES			
ALSCO - AMERICAN LINEN DIVI	LBO11779817	5192 021420	24.49
ALSCO - AMERICAN LINEN DIVI	LBO11779819	5493 021420	59.79
PIPECO, INC.	S3592376.002	Supplies	6.20
63-4340-3500 MOTOR FUELS & LUBRICANTS			
UNITED OIL	932620	37271 021520	216.81
63-4340-3800 CHEMICALS			
GEM STATE WELDERS SUPPLY,I	E261877	55 gal T-Chlor	252.24
63-4340-4200 PROFESSIONAL SERVICES			
WATER DISTRICT 37 & 37M	10188 020320	Ground Water - 37	2,010.81
WATER DISTRICT 37 & 37M	1284 020320	surface water - 37	607.27
63-4340-4900 PERSONNEL TRAINING/TRAVEL/MTG			
FERGUSON ENTERPRISES, LLC	0737147	2020 Ferguson CEU Class - Pat Cooley	60.00
63-4340-5100 TELEPHONE & COMMUNICATIONS			
CENTURY LINK	2087250715 02	2087250715 020420	117.98
CENTURY LINK	2087255045 02	2087255045 020420	53.99
VERIZON WIRELESS	365516521 021	365516521 021320	130.85
VERIZON WIRELESS	965494438 021	965494438 021020	42.88
63-4340-5200 UTILITIES			
IDAHO POWER	2202458903 02	2202458903 021920	133.52
IDAHO POWER	2206786259 02	2206786259 021920	45.48
Total WATER EXPENDITURES:			4,223.96
Total WATER FUND:			4,223.96

Vendor Name	Invoice Number	Description	Net Invoice Amount
WATER CAPITAL IMPROVEMENT FUND			
WATER CIP EXPENDITURES			
64-4340-7800 CONSTRUCTION			
S & C ASSOCIATES LLC	1562 - 1578	19-1052	220.00
64-4340-7802 KETCHUM SPRING WA CONVERSION			
GALENA ENGINEERING, INC.	20302 020120	20302 020120	1,360.00
S & C ASSOCIATES LLC	1562 - 1578	19-1072	440.00
Total WATER CIP EXPENDITURES:			2,020.00
Total WATER CAPITAL IMPROVEMENT FUND:			2,020.00
WASTEWATER FUND			
WASTEWATER EXPENDITURES			
65-4350-2515 VISION REIMBURSEMENT ACCT(HRA)			
STARLEY-LEAVITT INS. AGENCY	626907	626907 040120	54.00
65-4350-3120 DATA PROCESSING			
BILLING DOCUMENT SPECIALIS	57281	Utilities Billing	651.97
65-4350-3200 OPERATING SUPPLIES			
ALSCO - AMERICAN LINEN DIVI	LBOI1779817	5192 021420	24.49
ALSCO - AMERICAN LINEN DIVI	LBOI1779818	5292 021420	115.01
ATKINSONS' MARKET	01299020	Distilled Water	9.09
CHATEAU DRUG CENTER	2188051	Supplies	16.50
TREASURE VALLEY COFFEE INC	2160 06578324	COFFEE/power drinks/	136.23
65-4350-3500 MOTOR FUELS & LUBRICANTS			
NAPA AUTO PARTS	004017	Oil	14.36
NAPA AUTO PARTS	004109	Oil Credit	14.36-
UNITED OIL	932619	37270 021520	474.38
65-4350-4200 PROFESSIONAL SERVICES			
CENTRAL DRUG SYSTEM, INC.	304866	Testing & Fees	148.50
65-4350-5100 TELEPHONE & COMMUNICATIONS			
CENTURY LINK	2087268953 02	2087268953 021320	53.99
VERIZON WIRELESS	965494438 021	965494438 021020	25.46
VERIZON WIRELESS	965494438 021	965494438 021020	40.01
65-4350-5200 UTILITIES			
IDAHO POWER	2202158701 02	2202158701 021420	9,003.61
IDAHO POWER	2202703357 02	2202703357 021920	95.42
IDAHO POWER	2206786259 02	2206786259 021920	45.48
IDAHO POWER	2224304721 02	2224304721 021020	13.34
65-4350-6000 REPAIR & MAINT-AUTO EQUIP			
NAPA AUTO PARTS	005138	Brake Dryer Repair Kit	123.93
65-4350-6100 REPAIR & MAINT-MACH & EQUIP			
A.C. HOUSTON LUMBER CO.	2002-607833	Supplies	14.48
PLATT ELECTRIC SUPPLY	Z598541	Supplies	53.14
65-4350-6900 COLLECTION SYSTEM SERVICES/CHA			
PAPPAS PUMPING & SEPTIC SER	173	Saddle Road Sewer Block Services	260.00

Vendor Name	Invoice Number	Description	Net Invoice Amount
Total WASTEWATER EXPENDITURES:			11,359.03
Total WASTEWATER FUND:			11,359.03
WASTEWATER CAPITAL IMPROVE FND			
WASTEWATER CIP EXPENDITURES			
67-4350-7800 CONSTRUCTION			
S & C ASSOCIATES LLC	1562 - 1578	19-1063	55.00
67-4350-7810 HEADWORKS CONSTR. & EQUIP.			
HDR ENGINEERING, INC.	1200250079	20175 1200250079	2,683.12
Total WASTEWATER CIP EXPENDITURES:			2,738.12
Total WASTEWATER CAPITAL IMPROVE FND:			2,738.12
DEVELOPMENT TRUST FUND			
DEVELOPMENT TRUST EXPENDITURES			
94-4900-8000 PEG GATEWAY MARRIOTT AUTOGRAPH			
S & C ASSOCIATES LLC	1562 - 1578	19-1035	440.00
Total DEVELOPMENT TRUST EXPENDITURES:			440.00
Total DEVELOPMENT TRUST FUND:			440.00
Grand Totals:			459,230.23

Report Criteria:

Invoices with totals above \$0 included.

Paid and unpaid invoices included.

[Report].GL Account Number = "0110000000"- "9648008200", "9910000000"- "9911810000"

Invoice Detail.Voided = No,Yes



City of Ketchum

Date of Council Meeting

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

Recommendation To Approve Work Order With GC Systems'

Recommendation and Summary

Staff is recommending the council approve purchase order # 20446 with GC Systems for maintenance on our pump control valves at Bigwood, Rotary and Northwood Wells, and adopt the following motion:

I Move to adopt purchase order # 20446 with GC systems of Sumner Washington for maintenance on pump control valves for the Bigwood, Rotary and Northwood wells. The cost of this work order will not exceed \$10,199.00

The reasons for the recommendation are as follows:

- This is part of our ongoing maintenance program.

Introduction and History

These valves were last serviced in 2015.

Analysis

Manufacture recommendations are to service these valves every 5 years. The smooth operation of these valves is critical to the performance of these wells.

Sustainability

- This work will align with the City's Sustainability action plan by providing smooth operations and increased efficiencies of our wells.

Financial Impact

This is a budgeted expense and will be funded from the Water Division FY 19-20 budget.

Attachments:

Please see the attached quote from GC Systems and City of Ketchum Purchase Order # 20446.

Respectfully submitted,


Pat Cooley
Water Division Supervisor.

GC SYSTEMS, INC.
P.O. BOX 848
SUMNER, WASHINGTON 98390
800-525-9425

February 10, 2020

City of Ketchum
P.O. Box 2315
Ketchum, Idaho 83340

Attn: Mr. Gio Tognoni

Re: Proposal for 2020 Valve Rebuild

Dear Mr. Tognoni:

Per our e-mail conversation, you wanted to rebuild Bigwood Well, Rotary Well and Northwood Well this year, a total of eight valves. I am attaching a list of these valves for your review. Total cost for all these rebuilds will be \$10,199.00.

This rebuild consists of the cleaning of the main valve and pilot controls and the replacement of all rubber parts. If any metal parts in the valves or pilot controls require replacement they will be billed over and above this quoted price.

If required, the city shall supply all equipment, additional personnel, and complete any documentation if required to meet OSHA regulations for confined space entry as well as supplying any traffic revisions which may be necessary for work in public right-of-way's.

Please let me know if you want to schedule this rebuild. Thank you Gio.

Regards,

Beau Swet
GC Systems, Inc.

Attachment



City of Ketchum
City Hall

Purchase Order

Number: P.O. 20446
Date: 2-11-2020

Vendor: GC systems Inc.
P.O. Box 848
Sumner, Washington 98309

Quote Ref:

Quantity	Item # / SKU	Description	Item Cost	Total Cost
1	P.O. 20446	Rebuild and service pump control valves	\$10,199.00	\$10,199.00
		Bigwood, Rotary and Northwood wells		
			Total	\$10,199.00

The City of Ketchum is a tax-exempt political subdivision of the State of Idaho.

Please confirm this City of Ketchum Purchase Order with Grant Gager, Director Finance & Internal Services, at ggager@ketchumidaho.org or (208) 726-3841.

Please Ship Above Listed Items to:

City of Ketchum
Attn: Grant Gager
480 East Avenue N
Box 2315
Ketchum, ID 83340

Order Submitted By:

Grant Gager



City of Ketchum

March 2, 2020

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

Recommendation To Approve a Work Order with Layne Pumps.

Recommendation and Summary

Staff is recommending the council approve a work order # 20447 with Layne Pumps and adopt the following motion:

I move to adopt work order # 20447 with Layne Pumps to rebuild the Northwood Well pump and motor. The cost of the work order will not exceed \$ 11,011.00

The reasons for the recommendation are as follows:

- This is part of our ongoing maintenance program for all our wells and pump motors

Introduction and History

The Northwood well is our primary well. We schedule the rebuild work every two years.

Analysis

The early spring timing of this work is crucial to the ongoing dependability of this well.

Sustainability

- This recommended work will align with City of Ketchum Sustainability Action Plan with increased dependability and efficiencies.

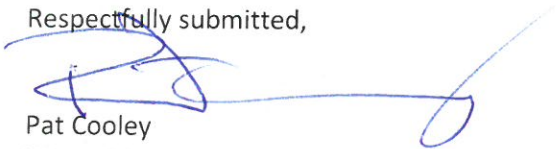
Financial Impact

This is a budgeted and planed for expense and will be funded out of the Water Division FY 19-20 budget.

Attachments:

Please see the attached quote from Layne Pump and City of Ketchum Purchase Order # 20447.

Respectfully submitted,


Pat Cooley
Water Division Supervisor

**LAYNE PUMPS, INC**

P.O. BOX 640

TWIN FALLS, ID 83301

TELEPHONE 208-733-3284

FAX: 208-423-5137

QUOTATION AND ORDERCITY OF KETCHUM
NORTHWOOD WELL

ATTN: GIO

DATE:

2/6/2020

WE ARE PLEASED TO SUBMIT THE FOLLOWING QUOTATION:

QUANTITY		SPECIFICATIONS	UNIT PRICE	TOTAL PRICE
16	HRS	PULL & SET PUMP & MOTOR	200.00	3,200.00
1		RE-PACK STUFFING BOX AND REPLACE BUSHING		119.00
1		1-11/16" X 65" X 1-11/16" 10TPI S.S. HEAD SHAFT		369.00
2		1-11/16" X 120" X 1-11/16" 10TPI S.S. LINE SHAFT	549.00	1,098.00
2		RUBBER INSERTS	22.00	44.00
1		10" CONE STRAINER		490.00
1		RECONDITION 13H 4STG PUMP		2,980.00
1		RECONDITION 150 HP US MOTOR		1,950.00
1		7322 MOTOR BEARING		697.00
1		6215 MOTOR BEARING		64.00
<small>*I (we) certify to have the authority to make this purchase for the buyer and acknowledge and agree to the maximum legal rate of interest to be assessed on any unpaid amounts after (30) thirty days from date of invoice, and that said charges on payment of interest does not provide for automatic deferred payments, or alter any terms outlined on this quotation and order</small>				

TERMS NET 30STATE SALES TAX N/ADELIVERYTOTAL PRICE 11,011.00

We hereby accept your proposal

on _____ 20 _____

signed _____

by _____

LAYNE PUMPS, INCBY GREG HARDY

QUOTATION NO. _____



City of Ketchum
City Hall

Purchase Order

Number: P.O. 20447
Date: 2/11/2020

Vendor: Lane Pumps Inc.
P.O. box 640
Twin Falls, Idaho 83301

Quote Ref:

Quantity	Item # / SKU	Description	Item Cost	Total Cost
1	P.O. 20447	Rebuild Northwood Well pump and motor	\$11,011.00	\$11,011.00
		Water Division.		
			Total	\$11,011.00

The City of Ketchum is a tax-exempt political subdivision of the State of Idaho.

Please confirm this City of Ketchum Purchase Order with Grant Gager, Director Finance & Internal Services, at ggager@ketchumidaho.org or (208) 726-3841.

Please Ship Above Listed Items to:

City of Ketchum
Attn: Grant Gager
480 East Avenue N
Box 2315
Ketchum, ID 83340

Order Submitted By:

Grant Gager



City of Ketchum

March 2, 2020

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

Recommendation to Approve Road Closure for Special Event

Recommendation and Summary

Staff is recommending Council approve the following road closure for a special event.

Main Street between Sun Valley Road and Second Street

Sun Valley Film Festival Main Street Salute, March 20 from 7 p.m. to March 21 at 1 a.m.

"I move to approve the street closure request for Sun Valley Film Festival Main Street Salute."

The reasons for the recommendation are as follows:

- The city has assigned designated and non-designated areas for special events.
- Non-designated street closures require approval by City Council.

Introduction and History

Designated locations, with a user fee of \$100 per event:

- First Avenue between Sun Valley Road and 4th Street
- First Avenue between Sun Valley Road and 2nd Street
- First Avenue between 5th and 6th Streets
- First Avenue between 1st and River Streets
- 4th Street between Leadville and East Avenues
- Picabo Street between Ritchie Drive and Gates Road
- Washington Avenue between 1st and River Streets

Other areas of the city, non-designated locations, require a user fee of \$500 per event and approval for use of the street by City Council.

Sun Valley Film Festival Main Street Salute is a returning event in Ketchum. This non-designated street closure was approved for the event in 2018.

Financial Impact

There is no financial impact.



City of Ketchum
City Hall

March 2, 2020

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

**Recommendation to Approve Contracts:
#20451 – Sun Valley Events
#20452 – Red’s Meadow Resort
#20453 – Sun Valley Company
and March 1 Payment to Sun Valley Events**

Recommendation and Summary

Staff is recommending City Council approve Contracts #20451, #20452 and #20453 for Wagon Days Weekend along with the March 1 payment to Sun Valley Events, and adopt with the following motions:

“I move to approve Contract #20451 with Sun Valley Events for Wagon Days Weekend 2020.”

“I move to approve Contract #20452 with Red’s Meadow for Wagon Days Weekend 2020.”

“I move to approve Contract #20453 with Sun Valley Company for Wagon Days Weekend 2020.”

“I move to approve the March 1 payment to Sun Valley Events pursuant to Contract #20451.”

The reasons for the recommendation are as follows:

- Sun Valley Events, Inc. has been the organizer for Wagon Days since 2001 as an independent contractor.
- The Wagon Days Parade requires an experienced jerk line operator to drive the wagon train, referred to as the “Big Hitch.” The City has contracted with Bobby Tanner of Red’s Meadow in Bishop, CA for over ten years to drive the Big Hitch.
- Sun Valley Company property is used for Wagon Days activities.

Current Report

Sun Valley Events, Inc. will assist the City of Ketchum in promoting, organizing and managing Wagon Days for a contract amount of \$25,000. The first monthly payment is due on March 1, 2020.

Red’s Meadow (Bobby Tanner) will provide mules, equipment and personnel necessary for the jerk line hitch at the 2020 Wagon Days Parade for a contract amount of \$22,180. In addition to the above sum, Contractor may request mileage reimbursement if fuel costs exceed \$3.75 per gallon for travel costs at the adopted federal rate in effect at the date of reimbursement request. Ketchum will also provide two (2) experienced persons to ride horses ahead of the team to widen the path, with a special effort at the corner of Main Street and Sun Valley Road; six (6) historic ore wagons in usable condition with operable

brakes; five (5) brake persons for the wagons; feed and lodging for the hitch mules and outrider horses; and lodging for the hitch driver and outriders.

Staging for Wagon Days Parade entrants is located in the pasture on the east side of Sun Valley Road, and the symphony parking area. The River Run parking lot is available for overnight camping for Wagon Days participants.

Financial Requirement/Impact

All costs will be funded through the FY20 Wagon Days Fund.

Attachments:

Sun Valley Events, Inc. Contract #20451

Red's Meadow Contract #20452

Sun Valley Company Contract #20453



City of Ketchum

INDEPENDENT CONTRACTOR AGREEMENT #20451 WITH SUN VALLEY EVENTS, INC.

THIS CONTRACT FOR SERVICES ("Agreement") is entered into as of the _____ day of _____ 2020 by and between Sun Valley Events, Inc. and the City of Ketchum, an Idaho municipal corporation (Sun Valley Events, Inc. and City of Ketchum are, collectively, the "Parties") with reference to the following facts:

RECITALS

- A. The City of Ketchum desires to promote business by enhancing the visitor and resident experience in the Ketchum/Sun Valley area with the Ketchum Wagon Days event ("Wagon Days"). Accordingly, the City has determined that Wagon Days serves a public purpose and is a benefit to its citizens.
- B. Sun Valley Events, Inc. has the expertise necessary to promote, organize, manage, coordinate and produce Wagon Days and other related programs and to assist the City of Ketchum in the management of Wagon Days from the contract effective date to September 21, 2020 ("Contract Period").
- C. City of Ketchum desires to retain the services of Sun Valley Events, Inc., and Sun Valley Events, Inc. desires to provide the services, as set forth herein.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. **General Duties.** Sun Valley Events, Inc. agrees to promote, organize, manage, coordinate and produce Wagon Days according to the terms and conditions of this Agreement.
2. **Description of Services.** Sun Valley Events, Inc. shall complete the tasks on the schedule as outlined in Addendum 1 attached hereto and incorporated herein by this reference (the "Services").
3. **Payment for Services.** In exchange for the Services, City of Ketchum shall pay Sun Valley Events, Inc. as follows:

Professional service fee - (8) monthly payments of \$3,125 will be made on the first day of each month beginning March 1, 2020 and a final payment due on September 21, 2020 for a total payment of twenty-five thousand dollars (\$25,000). Payment shall be made based on Ketchum's review and approval of work completed that month.

4. **Term – Month to Month.** This Agreement shall be effective for a period of one month and shall renew automatically each month and expire automatically on September 21, 2020 unless terminated as provided herein. The parties hereby agree that in the event Ketchum, in its sole and exclusive opinion, lacks sufficient funds to continue paying for the Services, Ketchum may terminate this Contract without penalty upon thirty (30) days written notice to Sun Valley Events, Inc. Upon receipt of such notice neither party shall have any further obligation to the other. In the event of such termination, Sun Valley Events, Inc. shall submit a report of expenditures to the City of Ketchum. Any Ketchum funds not encumbered for authorized expenditures by Sun Valley Events, Inc. at the date of termination shall be refunded to Ketchum within twenty (20) days.

5. **Independent Contract/No Partnerships or Employee Relationship.**

(a) By executing this Agreement, the Parties do not intend to create a partnership, joint venture, agency employee/employer relationship or any other relationship other than that of Independent Contractor. Neither Party shall have the power to bind the other in any manner whatsoever.

(b) In rendering the services contemplated by this Agreement, Sun Valley Events, Inc. is at all times acting as an Independent Contractor and not as an employee of City of Ketchum. Sun Valley Events, Inc. shall have no rights or obligations as an employee by reason of the Agreement, and City of Ketchum shall not provide Sun Valley Events, Inc. with any employee benefits, including without limitation, any City of Ketchum sponsored retirement, vacation or health insurance program.

(c) Except as set forth in the Addenda to this Agreement, City of Ketchum shall not exercise any control whatsoever over the manner in which Sun Valley Events, Inc. performs the obligations contemplated herein.

(d) Sun Valley Events, Inc. may perform services similar in nature to the services contemplated in this Agreement for other individuals and entities during the term of this Agreement.

(e) City of Ketchum shall not withhold any local, state or federal payroll or employment taxes of any kind from any compensation paid to Sun Valley Events, Inc. Sun Valley Events, Inc. hereby warrants and represents that it will pay all such employment and payroll taxes, if any, and hereby releases, holds harmless and indemnifies City of Ketchum and the directors, officers, members, employees and agents thereof from any and all costs, expenses or liability of any kind whatsoever that may be incurred as a result of Sun Valley Events, Inc.'s failure to pay such payroll or employment taxes.

6. **Assignment.** Neither Party shall assign any of its rights and/or obligations under this Agreement to any other person or entity.

7. **Representations and Warranties by Sun Valley Events, Inc.** Sun Valley Events, Inc. hereby represents and warrants to City of Ketchum as follows:

(a) Sun Valley Events, Inc. has the knowledge, experience and expertise and office equipment resources necessary to promote, organize, manage, coordinate and produce Wagon Days.

(b) City of Ketchum shall retain proprietary rights over all Wagon Days electronic and physical records and files, mailing lists, ideas, contracts and other items relating to the event.

(c) Public Records. Sun Valley Events, Inc. hereby acknowledges that all writings and documents, including without limitation email, containing information relating to the conduct or administration of the public's business prepared by Sun Valley Events, Inc. for Ketchum, regardless of physical form or characteristics, may be public records pursuant to the Idaho Public Records Act, Chapter 1 of Title 74 of Idaho Code. Accordingly, Sun Valley Events, Inc. shall maintain such writings and records in such a manner that they may be readily identified, retrieved and made available for such inspection and copying.

(d) Sun Valley Events, Inc. shall provide all Wagon Days materials to City of Ketchum immediately upon request.

(e) Sun Valley Events, Inc. maintains no control over the personnel, equipment or operation of any airline, surface carrier, bus or limousine company, transportation company, hotel, restaurant, venue, audio visual, staging, lighting, décor, entertainment or other person, corporation or other entity furnishing services or products connected to the event and that all such suppliers are independent contractors.

8. **Default.** In the event either Party hereto defaults in its performance of any of the obligations created hereunder, the other Party may pursue any and all remedies whether at law or equity, including without limitation terminating this Agreement.

9. **Voluntary Agreement.** This Agreement is freely and voluntarily entered into by each of the Parties. The Parties acknowledge and agree that each has been represented in the negotiation of this Agreement by counsel of its own choosing or has had an opportunity and ability to obtain such representation, that it has read this Agreement or had it read to it, that it understands this Agreement, and that it is fully aware of the contents and legal effects of this Agreement.

10. **Binding Agreement.** The provisions of this Agreement shall be binding upon, and shall obligate, extend to, and inure to the benefit of, each of the legal successors, assigns, transferees, grantees, and heirs of each of the Parties, and all persons who may assume any or all of the above-described capacities subsequent to the execution of this Agreement.

11. **Mediation.** Should a dispute arise and is not resolved by the Parties, the Parties shall first proceed in good faith to submit the matter to non-binding mediation with a mediator licensed in the State of Idaho. Upon completion of one attempt at mediation, either party may pursue any available legal or equitable remedy.

12. **Attorney Fees and Costs.** In the event that any of the Parties is required to incur attorney fees and/or costs to enforce or interpret any provision of this Agreement or is required to defend any action brought by any of the Parties, based on, arising from or related to this Agreement, the unsuccessful Parties agree to pay to the prevailing Parties their reasonable actual costs and attorney fees, whether or not litigation is actually commenced and including reasonable attorney fees and costs on appeal.

13. **Entire Agreement.** This Agreement contains the final, complete, exclusive, and entire agreement and understanding between the Parties on this topic and supersedes and/or replaces any and all prior negotiations, proposed agreements and agreements, whether written or oral on such topic.
14. **Modification.** This Agreement may not be modified except by a writing signed by all Parties affected by such purported modification.
15. **Waiver.** In the event of any default hereunder by either Party, if the other Party fails or neglects for any reason to demand full performance, such failure or neglect shall not be deemed to be a waiver of the right to demand full performance or a waiver of any cause of action, or as a waiver of any of the covenants, terms or conditions of this Agreement or of the performance thereof. None of the covenants, terms or conditions of this Agreement can be waived by either Party hereto except in a signed writing.
16. **Severability.** In the event that any portion of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining portions of this Agreement and the application thereof shall not in any way be affected thereby.
17. **Interpretation.**
- (a) Whenever in this Agreement the context may so require, the neuter gender shall be deemed to refer to and include the masculine and the feminine, the singular number shall be deemed to refer to and include the plural, and vice versa.
 - (b) This Agreement is the result of negotiations, and no Party shall be deemed to have drafted this Agreement for purposes of construing any portion of the Agreement for or against any Party.
 - (c) The descriptive headings in this Agreement are included for convenience of reference and are not intended to affect the meaning or construction of any of the provisions herein.
 - (d) Any exhibit attached hereto shall be deemed to have been incorporated herein by this reference as if set forth herein at length.
18. **Time is of the Essence.** Time is hereby made expressly of the essence in every term.
19. **Governing Law and Jurisdiction.** This Agreement shall in all respects be interpreted, enforced, and governed by and under the laws of the State of Idaho without giving effect to its conflicts of law provisions. The Parties each expressly agree to the appropriateness of and consent to the venue and jurisdiction of the State of Idaho in the County of Blaine and all state and federal courts having geographical jurisdiction for such County as the exclusive forum for the purposes of any action to enforce or interpret this Agreement.

20. **Capacity to Execute.** Each of the Parties, and each person signing this Agreement, represents and warrants that it and its representative(s) executing this Agreement on its behalf each has the authority and capacity to execute this Agreement.

21. **Counterparts.** The Parties may execute this Agreement, and any modification(s) hereof, in two or more counterparts, which shall, in the aggregate, be signed by all of the Parties. Each counterpart shall be deemed an original instrument as against any Party who has signed it. A faxed copy of the signature of any of the Parties shall have the same force and effect as an original signature of such Party.

22. **Indemnification.** Sun Valley Events, Inc. shall indemnify and hold harmless Ketchum and its directors, agents and employees free, clear and harmless, from and against any and all losses, liabilities, costs, expenses (including amounts paid in settlements and reasonable attorney's fees), claims, penalties, judgments and damages, resulting from or arising out of, by reason of any act, omission or negligence of Sun Valley Events, Inc. or its respective agents, employees or contractors in any way connected with or arising out of any accident, injury or damage, any breach of representation, injury to person or property, any activity conducted or action taken by the City of Ketchum, directly or indirectly, in conjunction with this Agreement.

WHEREFORE, the Parties have executed this Agreement on the day and year set out next to each of their signatures

CITY OF KETCHUM

SUN VALLEY EVENTS, INC.

Neil Bradshaw, Mayor

Heather LaMonica Deckard, President

ATTEST:

Robin Crotty City
Clerk



ADDENDUM 1

WAGON DAYS RESPONSIBILITY OUTLINE

SUN VALLEY EVENTS, INC.

General Event Management

- Project management: plan, direct, develop and coordinate scope and production of Wagon Days activities with city staff
- Develop, organize and direct volunteers
- Organize event staffing
- Organize event recap meeting

Administration

- Create action plan and outline responsibilities
- Develop and coordinate distribution of event correspondence (parade entry forms, thank you letters, notices, sponsor & participant letters)

Financials

- Follow proposed budget
- Approve payables/receivables
- Reconciliation

Database

- Input new and maintain database of parade participants, committees, sponsors, etc.

Database Sponsorship Program

- Define sponsorship program with the City
- Define sponsorship levels and target potential sponsors
- Sponsor management

Parade Management

- Solicit and procure parade participants
- Coordinate entry and confirmation mailings
- Coordinate judging of parade
- Coordinate parade route F&B vendors
- Coordinate announcing stands
- Coordinate post-parade picnic
- Coordinate sponsor recognition via signs, announcing stands, etc.

Marketing and Promotion

- Develop marketing/pr campaign with City of Ketchum
- Coordinate with WD participants and arrange interviews with media
- Work with volunteers to distribute posters/programs in key markets
- Coordinate banner display
- Coordinate information distribution

Brochure/Events Schedule Development

- Assist in preparation of program content: descriptions.
- Organize schedule of events (times and locations)

Program/Brochure Development

- Provide review/edit as needed

Souvenirs

- Develop and oversee printing and production of poster, t-shirts and buttons
- Organize sales and distribution of souvenir items
- Organize vendors for parade

On-Site production

- Oversee and coordinate activities as needed
- Oversee signage at venue and directing to events
- Oversee staffing and monitor venues
- Manage breakdown and event strike



City of Ketchum
City Hall

Independent Contractor Agreement #20452 with Red's Meadow Resort, Inc.

This AGREEMENT made and entered into this _____ day of _____ 2020 by and between the City of Ketchum, an Idaho municipal corporation (hereinafter referred to as "Ketchum") and Red's Meadow Resort, Inc., (hereinafter referred to as "Contractor").

RECITALS

WHEREAS, pursuant to Idaho Code Sections 50-301, 50-302, 50-303 and 50-304, Ketchum has the authority to enter into contracts for services reasonably necessary to maintain the peace and promote the public health, safety and welfare of Ketchum's residents and visitors and to maintain and promote Ketchum's trade, commerce and industry; and

WHEREAS, Bobby Tanner of Red's Meadow is highly skilled, has unique abilities and is experienced in operating an authentic jerk line hitch at the annual Wagon Days Parade; and

WHEREAS, Ketchum desires to contract with Red's Meadow for professional services to provide the mules, equipment and personnel necessary for the jerk line hitch at the 2020 Wagon Days Parade; and

WHEREAS, Red's Meadow desires to contract with Ketchum to provide said professional services.

AGREEMENT

NOW, THEREFORE, the parties hereto covenant and agree as follows:

1. **Incorporation of Recitals.** The Recitals set forth herein above are hereby incorporated into and made an integral part of this Agreement.
2. **The Services.** Contractor, as an independent contractor, hereby covenants and agrees to provide the professional services for Ketchum as set forth in Exhibit A, attached hereto and made a part hereof by reference, for the period from the date of this Agreement through September 30, 2020. Contractor shall provide, at its sole expense, all costs of labor, materials, supplies, business overhead and financial expenses, insurance, all necessary equipment and facilities to provide the professional services as set forth in this Agreement.
3. **Consideration.** Ketchum agrees to pay Contractor the sum of TWENTY-TWO THOUSAND ONE HUNDRED AND EIGHTY DOLLARS (\$22,180) for the services to be provided. In addition to the above sum, Contractor may request mileage reimbursement if fuel costs exceed \$3.75 per

gallon for travel costs at the adopted federal rate in effect at the date of reimbursement request.

Ketchum will also provide two (2) experienced persons to ride horses ahead of the team to widen the path, with a special effort at the corner of Main Street and Sun Valley Road; six (6) historic ore wagons in usable condition with operable brakes; five (5) brake persons for the wagons; feed and lodging for the hitch mules and outrider horses; and lodging for the hitch driver and outriders.

4. **Time of Performance.** Contractor shall provide the Services in a professional and timely manner.
5. **Cancellation.** Either party may cancel this agreement due to unforeseeable circumstances which may include but are not limited to, acts of God, transportation delays, acts of terrorism or military action that are directly related to the success of the Event and that occur in or directly affect the area in which the Event occurs. Neither party may cancel without cause. If either Sponsor or Speaker cancels with 90 days or less notice for reasons other than unforeseeable circumstances, the other party shall be entitled to recover its incurred costs.
6. **Independent Contractor.** Ketchum and Contractor hereby agree that Contractor shall perform the Services as an independent contractor and not as employee or agent of Ketchum. The Parties do not intend to create through this Agreement any partnership, corporation, employer/employee relationship, joint venture or other business entity or relationship other than that of independent contractor. Contractor, its managers, members, directors, officers, shareholders, agents and employees shall not receive nor be entitled to any employment-related benefits from Ketchum including without limitation, workers compensation insurance, unemployment insurance, health insurance, retirement benefits or any benefit that Ketchum offers to its employees. Contractor shall be solely responsible for the payment of all payroll and withholding taxes for amounts paid to Contractor under this Agreement and for Contractor's payments for work performed in performance of this Agreement by Contractor's managers, members, directors, officers, shareholders, agents and employees: and Contractor hereby releases, holds harmless and agrees to indemnify Ketchum from and against any and all claims or penalties including without limitation the 100% penalty, which in any manner relates to or arises from any failure to pay such payroll or withholding taxes.
7. **Insurance.** The Contractor shall obtain and maintain at all times during the term of this Agreement a policy of comprehensive general and contractual liability insurance providing for prudent limits, but in no event shall such insurance have limits of less than ONE MILLION DOLLARS (\$1,000,000.00) for personal injury or death to any number of persons, for any single occurrence. The Contractor shall provide the City with proof of insurance prior to August 15, 2020. Additionally, Ketchum agrees to provide general liability insurance in an amount not to exceed FIVE HUNDRED THOUSAND DOLLARS (\$500,000).
8. **Compliance with Laws.** Contractor, its managers, members, directors, officers, shareholders, agents and employees shall comply with all federal, state and local laws, rules and ordinances. This Agreement does not relieve Contractor of any obligation or responsibility imposed upon Contractor by law.

9. **Notice.** All notices, requests, demands or other communication required or provided for under *this* Agreement, other than instructions given by Ketchum pursuant to Paragraph 2 herein above shall be in writing. Notices to the City of Ketchum and Red's Meadow Resort, Inc. shall be addressed as follows:

KETCHUM:

City of Ketchum
P.O. Box 2315
Ketchum, ID 83340-2315

TANNER:

Red's Meadow Resort, Inc.
2424 Longview Drive
Bishop, CA 93514

10. **Non-Assignment.** Contractor hereby acknowledges that Ketchum has agreed to enter this Agreement based in part on Contractor's unique skills and reputation for professional work. Accordingly, Contractor may not assign or transfer in any manner this Agreement or any of Contractor's right, title or interest in or to this Agreement without the prior written consent of Ketchum, which may be withheld for any reason.
11. **Amendments.** This Agreement may only be changed, modified or amended in writing executed by all parties.
12. **Attorney Fees and Costs.** In the event that either party hereto is required to retain the services of an attorney to enforce any of its rights hereunder, the non-prevailing party shall pay the prevailing party all reasonable costs and attorney fees incurred in such enforcement, whether or not litigation is commenced and including reasonable costs and attorney fees on appeal.
13. **No Presumption.** No presumption shall exist in favor of or against any party to this Agreement as the result of the drafting and preparation of the document.
14. **Governing Law.** This Agreement shall be governed by the laws and decisions of the State of Idaho.
15. **Entire Agreement.** This Agreement contains the entire Agreement between the parties respecting the matters herein set forth and supersedes all prior Agreements between the parties hereto respecting such matter.
16. **Execution and Fax Copies and Signatures.** This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instruments.
17. **Authority.** The parties executing this Agreement warrant, state, acknowledge and affirm that they have the authority to sign the same and to bind themselves to the terms contained herein.

IN WITNESS WHEREOF, the parties hereto caused this Agreement to be executed on this day and year first written above.

CITY OF KETCHUM

RED’S MEADOW RESORT, INC.

Neil Bradshaw, Mayor

Bobby Tanner, Manager

ATTEST:

Robin Crotty
City Clerk

EXHIBIT A

Contractor will provide the following services for the City of Ketchum during the 2019 Wagon Days Parade:

Authentic jerk line hitch of twenty (20) matched mules plus one (1) additional mule to guarantee a complete hitch for the Wagon Days Parade. The mules average approximately fifteen (15) hands and twelve hundred (1,200) pounds each. The hitch is controlled solely by a jerk line to the left lead mule and a jockey stick from the line mule (or the left lead mule) to the off leader. The hitch will have three (3) teams of pointers to step across (or jump over) the fifth (5th) chain to ensure proper turning. The jerk line hitch of twenty (20) matched mules will be driven and worked as a team by Contractor or its designated driver prior to the Wagon Days Parade.

- All singletrees with spreaders, fifth (5th) chain, all harnesses and necessary rigging.
- All mules and outrider horses clean, healthy and in top presentable parade condition.
- Two (2) to four (4) experienced outriders with appropriate matching outfits and matching horses.
- One (1) experienced driver and one (1) brake person for the lead wagon.
- All or part of the hitch will be available on the Friday prior to the Wagon Days Parade to be driven with the wagons to be pulled in the Wagon Days Parade and a demonstration of all or part of the hitch and jerk line will be available.
- Photos of the hitch with the mules, outriders, and outrider horses will be made available to Contractor for publicity of the Wagon Days Parade.

LEASE AGREEMENT #20453 WITH SUN VALLEY COMPANY FOR WAGON DAYS

THIS LEASE AGREEMENT ("Lease") is made and entered into this ____ day of _____ 2020, by and between Sun Valley Company, a Wyoming corporation ("Lessor") and the City of Ketchum, an Idaho municipal corporation ("Lessee").

WHEREAS, Lessor is the owner of certain real property and improvements thereon as more particularly described in the attached Exhibit A ("**Premises**"); and

WHEREAS, Lessor desires to lease all of such Premises to Lessee and Lessee desires to take under lease all of such Premises from Lessor upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual covenants, obligations and promises herein contained, the parties hereto agree as follows:

ARTICLE I **Premises and Term**

Lessor, for and in consideration of the rent, covenants, agreements and conditions hereinafter set forth to be kept and performed by Lessee, hereby leases the Premises to Lessee.

This Lease shall commence on September 3, 2020 and shall terminate on September 6, 2020.

ARTICLE II **Rent**

Lessee agrees to pay Lessor rental for Premises as follows: One Dollar (\$1.00) for the use of symphony parking lot across from Pavilion, pasture located on the east side of Sun Valley Road for pasture and grazing commencing at the red barn landmark and ending at Bitterroot Road for storage of non-motorized vehicles, trailers and grazing of livestock; and 25% of all profits generated from charging RVs to Park at the River Run Upper Parking Lot. Any usage fees in connection with permitted uses shall not be considered an assignment or sublease for purposes of this Agreement.

ARTICLE III **Use of Premises**

It is covenanted and agreed that the Premises may be used for storage of non-motorized vehicles, trailers and grazing of livestock in designated pasture area, use of River Run Upper Parking Lot for RV parking, and for any other use approved in writing, in advance, by the Lessor.

Lessee shall not use the Premises in any manner that will render void any insurance carried by Lessor on the Premises.

Lessee shall not use the Premises for any purpose that violates any federal, state, county, or municipal statute or ordinance, or of any regulation, order, or directive of any governmental agency concerning the use and/or safety of the Premises.

ARTICLE IV

Assignment and Sublease

Lessee will not assign or in any manner transfer this Lease or any interest therein and will not suffer or permit any assignment thereof by operation of law or sublet the Premises hereby leased, or any part thereof, or allow anyone to take over the Premises or this Lease with, through or under Lessee without the written consent of Lessor. The giving of any such consent shall not release or discharge Lessee from the performance of its duties and obligations. The granting of such written consent shall not be deemed to waive the requirement of prior consent for any subsequent or additional assignments or subleases.

ARTICLE V

Liability

It is expressly understood that Lessee has fully inspected the Property and accepts the Property in their present condition. Lessee further agrees to accept all liability for the Property during the entire term of this Lease and accepts all liability for any and all damages, claims, actions or causes of action in any way related to the Property during the time of this Lease unless caused by the negligence or willful misconduct of Lessor.

ARTICLE VI

Compliance with Laws/Public Records

Lessor, its agents and employees shall comply with all federal, state and local laws, rules and ordinances. This Agreement does not relieve Lessor of any obligation or responsibility imposed upon Lessor by law. Without limitation, Lessor hereby acknowledges that all writings and documents, including without limitation email, containing information relating to the conduct or administration of the public's business prepared by Lessor for Lessee regardless of physical form or characteristics may be public records pursuant to Idaho Code.

ARTICLE VII

Repairs and Maintenance

It is expressly understood that Lessee accepts the Premises in their present condition. Lessee agrees to make and pay for all ordinary repairs to the interior of the Premises connected with Lessee's use of the Premises. Lessee agrees to make and pay for all ordinary repairs of mechanical equipment on the Premises connected with Lessee's use of the Premises.

Lessee assumes all liability for and Lessor shall not be held liable for injury, loss or damage to persons or property occurring on the Premises during the term of this lease.

Lessor, for itself and its agents, reserves the right to enter the Premises at all reasonable times during the term of this Lease for the purpose of (a) examining and inspecting the same; (b) making such repairs thereto as Lessor may deem necessary or desirable. Lessor will retain responsibility and liability for any of its own such actions.

ARTICLE VIII

Public Liability Insurance

Lessee agrees to provide and keep in force during the term of this Lease general liability policies of insurance in an amount no less than Five Hundred Thousand Dollars (\$500,000) per occurrence, in standard form, reasonably satisfactory to Lessor, insuring Lessee against any liability that may accrue on account of any occurrences in or about the Premises during the term of this Lease, or in consequence of Lessee's occupancy thereof, or for Lessee's contractual liability under this Lease, and resulting in personal injury or death or property damage. Lessee shall furnish Lessor with a certificate or certificates of insurance covering such insurance so maintained by Lessee, stipulating that such insurance shall not be cancelled without notice in advance to Lessor. Lessee will accept a tender of Lessor's defense if Lessor is named a party to a lawsuit solely because of its ownership of the Property and not as a result of its own conduct.

ARTICLE IX

Fire Insurance

Lessee shall keep the real property and any improvements used for the purpose of Wagon Days insured against loss or damage by fire and the perils commonly covered under the standard extended coverage endorsement to the extent of the replacement value thereon.

ARTICLE X

Default by Lessee

If any one or more of the following events ("**Default**") shall happen and be continuing, namely:

A. Lessee shall fail to pay any rent or other sum of money to Lessor when the same is due and such failure continues for Five (5) days after Lessor has given Lessee written notice thereof;

B. Lessee shall default in the performance of any of the terms or provisions of this Lease (other than the payment of rent or other sum of money) and shall fail to cure such default within Thirty (30) days after notice thereof is given;

Then, and in any of such events of Default, Lessor shall have the immediate right to re-enter the Premises and expel Lessee or any person, or persons occupying the same, with or without legal process, and in any such event, Lessee agrees to peacefully and quietly yield up and surrender the Premises to Lessor. Lessor shall also have the right to pursue all other legal and equitable remedies.

ARTICLE XI
Surrender of Possession

Upon the termination of this Lease, whether by reason of lapse of time, cancellation, forfeiture or otherwise, or upon any uncured default by Lessee as hereinabove defined, Lessee shall immediately surrender and deliver to Lessor possession of the Premises and all appurtenances thereto in good condition and repair and shall repair any damages to the Premises that occurred during the term of this Lease.

ARTICLE XII
Waiver of Breach

No waiver of any breach or breaches of any covenant or condition herein contained shall operate as a waiver of any breach of any other covenant or condition herein contained, or as the waiver of any subsequent breach of the same covenant or condition.

ARTICLE XIII
Costs and Attorneys Fees

The costs, including reasonable attorneys' fees, of any action brought to enforce any of the terms or provisions of this Lease, shall be borne by the party adjudged by the Court to have violated any of the terms or provisions of this Lease.

ARTICLE XIV
Miscellaneous Provisions

The headings of the several Articles and sections contained herein are for convenience only, and do not define, limit or construe the contents of such Articles and sections.

The various rights and remedies herein contained and reserved to each of the parties, except as herein otherwise expressly provided, shall not be considered as exclusive of any other right or remedy of such party; but shall be construed as cumulative and shall be in addition to every other remedy now or hereafter existing at law, in equity or by statute. No delay or omission of the right to exercise any power or remedy by either party shall impair any such right, power or remedy, or be construed as a waiver of any default or nonperformance, or as acquiescence therein.

This Lease is and shall be considered to be the only agreement and understanding between the parties hereto with respect to the subject matter hereof. All negotiations and oral agreements acceptable to both parties have been incorporated herein. It may not be amended or modified by any act or conduct of the parties, or by oral agreement, unless reduced to writing.

All of the rights and obligations of the parties under this Lease shall bind, and the benefit shall inure to, their respective heirs, legal representatives, successors and assigns.

IN WITNESS WHEREOF, this Lease has been executed the day, month and year first above written.

LESSOR:

Sun Valley Company,
A Wyoming corporation

LESSEE:

City of Ketchum,
An Idaho Municipal Corporation

By: _____
Its: _____

By: _____
Its: Mayor

Attest:

Robin Crotty, City Clerk

EXHIBIT A
DESCRIPTION OF PREMISES

- Pastures located on the east side of Sun Valley Road commencing at the red barn landmark and ending at Bitterroot Road.
- Symphony parking area located south of Dollar Road across the street from the Pavilion
- River Run upper parking lot only, excluding VIP and Lower River Run parking lots.



City of Ketchum

March 2, 2020

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

Recommendation to set a publicly noticed hearing date of April 6, 2020 to reconsider the adopted PEG Preliminary Plat Findings

Recommendation and Summary

Staff is recommending the Ketchum City Council (Council or KCC) adopt the following motion:

MOVE to set a publicly noticed hearing date of April 6, 2020 to reconsider the Findings entered on February 3, 2020 for the PEG Ketchum Hotel, LLC Re-adjustment of Lot Line 1-Lot Preliminary Plat and to amend and reform the same in accordance with the proposed First Amended and Revised Findings of Fact, Conclusions of Law and Decision attached hereto as **Exhibit A**

The reasons for the recommendation are as follows:

- The Findings approved by the Council on 2/3/20 indicated that the Applicant requested building permit issuance prior to final plat recordation. This is not the case and clarification of the Findings consistent with Exhibit A is recommended by staff.

Analysis

The applicant desires to record the final plat before building permit issuance, but defer the River Street right of way improvements (sidewalk, street lights, etc) consistent with the revised findings noted in **Exhibit A**.

Deferment of the public right of way improvements is allowed consistent with the revised findings and Condition 19.7 of the approved Planned Unit Development Findings for the property. Condition 19.7 requires that the Applicant issue an irrevocable letter of credit for Public ROW Improvements affecting the River Street right of way prior to building permit issuance for the Project.

Financial Impact

None provided the letter of credit for the right of way improvements is provided as stipulated.

Attachments

- Motion for Reconsideration of PEG's Preliminary Plat Findings
- **Exhibit A** – First Amended and Revised Findings of Fact, Conclusions of Law and Decision

BEFORE THE CITY COUNCIL OF THE CITY OF KETCHUM IDAHO

IN RE:)	FILE NO. 19-064
)	
PEG KETCHUM HOTEL, LLC)	
)	
Applicant for)	MOTION FOR
Lot Line Adjustment)	RECONSIDERATION OF
)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW AND
)	DECISION
)	

COMES NOW, Administrator of the City of Ketchum Zoning Ordinance and moves the City Council as follows:

1. REQUESTED ORDERS:

- 1.1** That the City Council set a hearing date on the motion to reconsider and provide for notice in accordance with the notice previously provided for the public hearings on this matter; and
- 1.2** Reconsideration of the Findings of Fact, Conclusions of Law and Decision entered on February 3, 2020 in the above entitled matter and to amend and reform the same in accordance with the proposed First Amended and Reformed Findings of Fact, Conclusions of Law and Decision attached hereto marked **Exhibit A** and by this reference incorporated herein.

2. DOCUMENTS AND RECORDS SUPPORTING THIS MOTION

- 2.1** This *Motion*;

2.2 Attached draft First Amended and Reformed Findings of Fact, Conclusions of Law and Decision attached to this motion as Exhibit A; and

2.3 The Record of this matter.

3. GOOD CAUSE FOR GRANTING THIS MOTION

3.1 The attached draft First Amended and Reformed Findings of Fact, Conclusions of Law and Decision include additional findings that link and condition the approval of the above entitled matter to relevant conditions of the Applicant's pending Planned Unit Development Condition Use Permit Application, its Design Review and Permit Conditions Acceptance Development Agreement and also clarifies that the Findings of Fact, Conclusions of Law and Decision are not final until conditions subsequent have occurred.

DATED this _____ day of February, 2020.

ADMINISTRATOR

By: _____
John Gaeddert

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of March, 2020, I filed the foregoing *Motion for Reconsideration* electronically and by U.S. Mail, as set forth below:

Applicant

Email: Nick Blayden

<nblayden@pegcompanies.com>

US Mail:

Gary Slette Attorney

Email: Gary Slette <gslette@rsidaholaw.com>

US Mail:

Administrator

W:\Work\K\Ketchum, City of 24892\Gateway Hotel Development Proposal .015\Subdivision Approval\Staff motion for reconsideration wfg.docx

ZONING: The property is zoned Tourist (T) with Floodplain/Waterways Design Review overlay.

THE ABOVE ENTITLED MATTER coming before the City Council of the City of Ketchum (the “Council”) pursuant to the receipt of the Findings of Fact, Conclusions of Law, Order of Decision and Recommendation to the City Council from the Planning and Zoning Commission of the City of Ketchum dated August 12, 2019 (the “P & Z FCR”) which is a Decision and Recommendation of approval subject to terms and conditions of the Lot Line Adjustment Application preliminary plat for a New Lot 3 A which is also in conjunction with approval of the accompanying PEG Ketchum Hotel, LLC PUD Project Master Plan (the “PEG PUD Conditional Use Permit Application”). The Council having reviewed the entire record before the Ketchum Planning and Zoning Commission (the “P&Z”) of the P & Z FCDR and provided notice and held hearings and the issued Findings of Fact Conclusions of Law and Decision on the Lot Line Adjustment Application for preliminary plat on February 3, 2020; and having received Requests for Reconsideration and having provided additional notice and held a hearing and sought additional information does hereby make and set forth the these First Amended and Reformed Findings of Fact, Conclusions of Law, and Order of Decision as follows:

FINDINGS OF FACT

1. The original Findings of Fact Conclusions of Law and Decision were approved by the City Council on February 3, 2020 (the “Original Findings”); and
2. The City Staff filed a motion for reconsideration and affected property owners represented by Attorney Gary Slette filed a letter seeking reconsideration of the Original Findings (the “Reconsideration Requests”); and
3. The City Council, subject to notice, held a hearing and received testimony and evidence in regards to the Reconsideration Requests.
4. The applicant proposes to combine three parcels into a new Lot 3A, Block 82, Ketchum Townsite. The application meets the definition of “readjustment of lot line” as defined in Ketchum Municipal Code (“KMC”) §16.04.030.L of the City Subdivision Ordinance.
5. Applicant has also submitted a Master Plan inclusive of New Lot 3A which is the subject of the Applicant’s application for a Planned Unit Development Conditional Use Permit, (the “PUDCUP”) pursuant to Title 16, Chapter 16.08. Subject PUDCUP includes a request for waiver or deferral of requirements (KMC §16.08.070.F).
6. The Administrator of the City Subdivision Ordinance has the duty to administer its regulations as provided in KMC § 16.04.030; and the Administrator has procedurally processed this Lot Line

Adjustment Application in accordance with the Preliminary Plat Procedures and Final Plat Procedures as provided in KMC § 16.04.030 C, D, E and F.

7. The preliminary plat of the Lot Line Adjustment Application was first heard by the Planning and Zoning Commission pursuant to KMC § § 16.08.110 and 17.116.040 along with the PUDCUP both hearings pursuant to notice at 4:30 p.m. on July 28, 2019 which hearing was then continued and reconvened by the Planning and Zoning Commission to 5:30 p.m. on July 29, 2019 and was again continued and reconvened by the Planning and Zoning Commission at 5:30 p.m. on August 12, 2019 for receipt and consideration and approval of its Findings of Fact, Conclusions of Law, Decision of recommendation of approval to the Ketchum City Council subject to fifteen (15) conditions of that approval.
8. The Planning and Zoning Commission following the hearing on the PUDCUP on August 12, 2019 received, considered and approved its Findings of Fact, Conclusions of Law, Order of Decision and Recommendation to the City Council of approval of the PUDCUP subject to a number of listed conditions which included condition 4.1.8.8 providing that : *The Applicant has entered into the Permit Conditions Acceptance Development Agreement consistent in form with Attachment E. (the “ Permit Acceptance Agreement”)*
9. The New Lot 3A is part and parcel of the details of the Applicant’s Master Plan as is set forth in Attachment B which Master Plan is a subject of the Applicant’s PUDCUP Application. Included in Attachment B is Galena Engineers plat map showing a new Lot 3A, which combines the three existing lots owned by the Applicant within Block 82 of the Ketchum Townsite Plat into one larger lot. Subject map was prepared by Galena Engineers and was stamped by Mark Phillips on 6/12/2019.
10. New Lot 3A is 47,249 square feet and exceeds the minimum Tourist zone lot size of 8,000 square feet. Further, the property exceeds the eighty-foot (80’) minimum lot width established for the Tourist zone and includes the required twenty-five foot (25’) Riparian and Scenic Easement from the Ordinary High-Water Mark (“OHWM”) established by the KMC for building setbacks along Trail Creek.
11. The following provides the Ketchum City Council’s findings regarding the standards and requirements applicable to the New Lot 3A Lot Line Adjustment Application.

Table 1: Zoning Standards Analysis

Compliance with Zoning Standards				
Compliant			Standards and Staff Comments	
Yes	No	N/A	Guideline	City Standards and Staff Comments
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.12.030	Minimum Lot Area: 9,000 square feet minimum.
			<i>Staff Comment</i>	<i>New Lot 3A is 47,249 square feet</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.12.030	Building Coverage
			<i>Staff Comment</i>	<i>A Planned Unit Development Application, pursuant to Title 16, Chapter 16.08 Project proposes a waiver to the FAR requirements consistent with KMC §17.124040 and, subject to approval of the PUD application with conditions, complies with this zoning standard.</i>

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.12.030	Minimum Building Setbacks Minimum: <i>Front: 15'</i> <i>Side: > of 1' for every 2' in building height, or 10', whichever is greater</i> <i>Trail Creek/Rear: 25'</i> <i>State Highway 75: 25' to 32' (varies)</i>
			<i>Staff Comment</i>	<i>The Project proposes a waiver to the side yard setback requirements and, subject to approval of the PUD application with conditions, complies with this provision of the Tourist zoning standard.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.12.030	Building Height Maximum Permitted: 35' or greater for hotels
			<i>Staff Comment</i>	<i>The Project proposes a waiver to the height requirements for hotels and, subject to approval of the PUD application with conditions, complies with this zoning standard</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.125. 030.H	Curb Cut Permitted: <i>A total of 35% of the linear footage of any street frontage can be devoted to access off street parking.</i>
			<i>Staff Comment</i>	<i>There are no curb cuts proposed along State Highway 75. The new configuration results in < 35% of the linear footage of street frontage devoted to access the off street parking within the parking garage.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.125.020.A.2 & 17.125.050	Parking Spaces <i>Off-street parking standards of this chapter apply to any new development and to any new established uses.</i>
			<i>Staff Comment</i>	<i>As analyzed by staff and consistent with §17.125 of the KMC, the Project has adequate parking for the proposed uses on the property.</i>

Table 2: Plat Requirements

Plat Requirements				
Compliant			Standards and Staff Comments	
Yes	No	N/A	City Code	City Standards and <i>Staff Comments</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.C.1	The subdivider shall file with the administrator copies of the completed subdivision application form and preliminary plat data as required by this chapter.
			<i>Staff Comments</i>	<i>The application has been reviewed and determined to be complete.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I	Contents Of Preliminary Plat: The preliminary plat, together with all application forms, title insurance report, deeds, maps, and other documents reasonably required, shall constitute a complete subdivision application. The preliminary plat shall be drawn to a scale of not less than one inch equals one hundred feet (1" = 100') and shall show the following:
			<i>Staff Comments</i>	<i>All required materials for the Subdivision Plat application have been submitted.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .1	The scale, north point and date.
			<i>Staff Comments</i>	<i>This standard has been met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .2	The name of the proposed subdivision, which shall not be the same or confused with the name of any other subdivision in Blaine County, Idaho.
			<i>Staff Comments</i>	<i>This standard has been met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .3	The name and address of the owner of record, the subdivider, and the engineer, surveyor, or other person preparing the plat.
			<i>Staff Comments</i>	<i>This standard shall be met with the Final Plat with the signed Certificate of Ownership.</i>

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .4	Legal description of the area platted.
			<i>Staff Comments</i>	<i>This standard has been met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .5	The names and the intersecting boundary lines of adjoining subdivisions and parcels of property.
			<i>Staff Comments</i>	<i>This standard has been met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .6	A contour map of the subdivision with contour lines and a maximum interval of five feet (5') to show the configuration of the land based upon the United States geodetic survey data, or other data approved by the city engineer.
			<i>Staff Comments</i>	<i>This standard has been met. The Subdivision Plat indicates contour lines at 1 ft intervals.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I.7	The scaled location of existing buildings, water bodies and courses and location of the adjoining or immediately adjacent dedicated streets, roadways and easements, public and private.
			<i>Staff Comments</i>	<i>This standard has been met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .8	Boundary description and the area of the tract.
			<i>Staff Comments</i>	<i>The legal description appears on the Plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .9	Existing zoning of the tract.
			<i>Staff Comments</i>	<i>Each of the affected lots are located in the Tourist Zoning District.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .10	The proposed location of street rights of way, lots, and lot lines, easements, including all approximate dimensions, and including all proposed lot and block numbering and proposed street names.
			<i>Staff Comments</i>	<i>Subject items are reflected on the plat.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .11	The location, approximate size and proposed use of all land intended to be dedicated for public use or for common use of all future property owners within the proposed subdivision.
				<i>No land for common or public use is required or proposed.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .12	The location, size and type of sanitary and storm sewers, water mains, culverts and other surface or subsurface structures existing within or immediately adjacent to the proposed sanitary or storm sewers, water mains, and storage facilities, street improvements, street lighting, curbs, and gutters and all proposed utilities.
			<i>Staff Comments</i>	<i>The plat indicates the existing locations of all utilities. An encroachment permit will be required for all improvements to public right of way. A full utility plan will be required prior to final plat recordation and infrastructure construction.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .13	The direction of drainage, flow and approximate grade of all streets.
			<i>Staff Comments</i>	<i>These details are indicated. An encroachment permit will be required for all improvements to public right of way. A full utility plan will be required prior to final plat recordation and infrastructure construction.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .14	The location of all drainage canals and structures, the proposed method of disposing of runoff water, and the location and size of all drainage easements, whether they are located within or outside of the proposed plat.
			<i>Staff Comments</i>	<i>Drainage infrastructure exists within Idaho Transportation Department (ITD) right of way (ROW) near the SE corner of the property. This and related infrastructure are shown on the plat, including a drywell easement (instrument #440075) and two sanitary sewer easement (instrument #130085 and 130089). Also, a proposed new twenty-five foot (25') riparian and scenic easement is shown on the plat. Any work in this area is subject to separate floodplain rules and regulations.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .15	All percolation tests and/or exploratory pit excavations required by state health authorities.

			Staff Comments	<i>Applicant has submitted results of percolation and related tests.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .16	A copy of the provisions of the articles of incorporation and bylaws of homeowners' association and/or condominium declarations to be filed with the final plat of the subdivision.
			Staff Comments	<i>N/A</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .17	Vicinity map drawn to approximate scale showing the location of the proposed subdivision in reference to existing and/or proposed arterials and collector streets.
			Staff Comments	<i>This has been provided.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .18	The boundaries of the floodplain, floodway and avalanche zoning district shall also be clearly delineated and marked on the preliminary plat.
			Staff Comments	<i>New Lot 3A is located within the City's Floodplain Overlay District. The applicant has included an easement on the plat to protect this area.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .19	Building envelopes shall be shown on each lot, all or part of which is within a floodway, floodplain, or avalanche zone; or any lot that is adjacent to the Big Wood River, Trail Creek, or Warm Springs Creek; or any lot, a portion of which has a slope of twenty five percent (25%) or greater; or upon any lot which will be created adjacent to the intersection of two (2) or more streets.
			Staff Comments	<i>KMC §16.040.020 defines Building Envelope as, "the site for location of a structure delineated on a preliminary plat and final plat within which the entire building must be constructed. A building envelope shall conform to all minimum zoning ordinance requirements and requirements of this chapter." This application is a minor amendment to shift an interior boundary line in order to for the Applicant to not build over existing lot lines. Applicant has shown a new easement to assure no building is constructed within 25' of Trail Creek. A building envelope ("BE") will be reflected on the final plat consistent with the approved final Agreement for the Project. Subject BE will reflect the Council's final approval on corner lot radii sight line requirements and side yard setbacks. The BE shall not encroach within 25' of Trail Creek or the edge of ITD ROW.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .20	Lot area of each lot.
			Staff Comments	<i>The areas of each lot are indicated on the Plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .21	Existing mature trees and established shrub masses.
			Staff Comments	<i>Existing mature trees and established shrub masses exist on the Property. Subject vegetation along Trail Creek helps provide important habitat and benefits to the stream. Mature trees along River Street provide a visual buffer for the old, dilapidated structures. A landscaping plan has been submitted for the Project, as well as a separate Floodplain Development Permit. The removal of existing mature trees and/or established shrub masses is subject to approval and adoption of the Applicant's landscape plan through the Design Review and/or Floodplain Development Permit process.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .22	A current title report shall be provided at the time that the preliminary plat is filed with the administrator, together with a copy of the owner's recorded deed to such property.
			Staff Comments	<i>A current title report and a copy of the both owners' recorded deed to the subject properties were included in the Plat application submittal.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .23	Three (3) copies of the preliminary plat shall be filed with the administrator.
			Staff Comments	<i>A digital copy for reproduction was submitted with the application. Therefore, Staff required only one (1) full size copy of the preliminary plat.</i>

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.A	Required Improvements: The improvements set forth in this section shall be shown on the preliminary plat and installed prior to approval of the final plat. Construction design plans shall be submitted and approved by the city engineer. All such improvements shall be in accordance with the comprehensive plan and constructed in compliance with construction standard specifications adopted by the city. Existing natural features which enhance the attractiveness of the subdivision and community, such as mature trees, watercourses, rock outcroppings, established shrub masses and historic areas, shall be preserved through design of the subdivision.
			Staff Comments	<i>The property is served by city water and sewer services, as well as other public and private utilities (TV, gas, electric, etc). Also serving new Lot 3A is an existing sidewalk within ITD ROW. No sidewalks exist for the Property along River Street, which has an eight-foot (8') wide sidewalk requirement. An encroachment permit from ITD as well as the City will be required for all improvements to public right of way, including the construction of a sidewalk not less than eight-feet (8') in width along River Street. As a condition of Plat approval, subject sidewalk shall be installed prior to final plat recordation unless otherwise approved by the Ketchum City Council.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.B	Improvement Plans: Prior to approval of final plat by the commission, the subdivider shall file two (2) copies with the city engineer, and the city engineer shall approve construction plans for all improvements required in the proposed subdivision. Such plans shall be prepared by a civil engineer licensed in the state.
			Staff Comments	<i>Subject plans are required.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.C	Prior to final plat approval, the subdivider shall have previously constructed all required improvements and secured a certificate of completion from the city engineer. However, in cases where the required improvements cannot be constructed due to weather conditions or other factors beyond the control of the subdivider, the city council may accept, in lieu of any or all of the required improvements, a performance bond filed with the city clerk to ensure actual construction of the required improvements as submitted and approved. Such performance bond shall be issued in an amount not less than one hundred fifty percent (150%) of the estimated costs of improvements as determined by the city engineer. In the event the improvements are not constructed within the time allowed by the city council (which shall be one year or less, depending upon the individual circumstances), the council may order the improvements installed at the expense of the subdivider and the surety. In the event the cost of installing the required improvements exceeds the amount of the bond, the subdivider shall be liable to the city for additional costs. The amount that the cost of installing the required improvements exceeds the amount of the performance bond shall automatically become a lien upon any and all property within the subdivision owned by the owner and/or subdivider.
			Staff Comments	<i>Subject civil engineering improvement plans have been submitted to the City. However, due to existing winter weather conditions, which make concrete pours inadvisable, and other factors beyond the control of the applicant (as is currently being experienced by the City in completing its SolarOne specified 2700 Kelvin outdoor light fixtures), the applicant proposes to record the final plat prior to the River Street sidewalk and street lighting ROW improvements being made. Consistent with KMC § 16.04.040.C the Council may accept a performance bond for outstanding improvements. In this instance, a superior performance instrument</i>

				<i>(letter of credit) is proposed to be filed with the city clerk to ensure actual construction of the required improvements as submitted and approved.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.D	<p>As Built Drawing: Prior to acceptance by the city council of any improvements installed by the subdivider, two (2) sets of as built plans and specifications, certified by the subdivider's engineer, shall be filed with the city engineer. Within ten (10) days after completion of improvements and submission of as built drawings, the city engineer shall certify the completion of the improvements and the acceptance of the improvements, and shall submit a copy of such certification to the administrator and the subdivider. If a performance bond has been filed, the administrator shall forward a copy of the certification to the city clerk. Thereafter, the city clerk shall release the performance bond upon application by the subdivider.</p>
				<i>Subject plans are required.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.E	<p>Monumentation: Following completion of construction of the required improvements and prior to certification of completion by the city engineer, certain land survey monuments shall be reset or verified by the subdivider's engineer or surveyor to still be in place. These monuments shall have the size, shape, and type of material as shown on the subdivision plat. The monuments shall be located as follows:</p> <ol style="list-style-type: none"> 1. All angle points in the exterior boundary of the plat. 2. All street intersections, points within and adjacent to the final plat. 3. All street corner lines ending at boundary line of final plat. 4. All angle points and points of curves on all streets. 5. The point of beginning of the subdivision plat description.
			Staff Comments	<i>Monumentation required.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.F	<p>Lot Requirements:</p> <ol style="list-style-type: none"> 1. Lot size, width, depth, shape and orientation and minimum building setback lines shall be in compliance with the zoning district in which the property is located and compatible with the location of the subdivision and the type of development, and preserve solar access to adjacent properties and buildings. 2. Whenever a proposed subdivision contains lot(s), in whole or in part, within the floodplain, or which contains land with a slope in excess of twenty five percent (25%), based upon natural contours, or creates corner lots at the intersection of two (2) or more streets, building envelopes shall be shown for the lot(s) so affected on the preliminary and final plats. The building envelopes shall be located in a manner designed to promote harmonious development of structures, minimize congestion of structures, and provide open space and solar access for each lot and structure. Also, building envelopes shall be located to promote access to the lots and maintenance of public utilities, to minimize cut and fill for roads and building foundations, and minimize adverse impact upon environment, watercourses and topographical features. Structures may only be built on buildable lots. Lots shall only be created that meet the definition of "lot, buildable" in section 16.04.020 of this chapter. Building envelopes shall be established outside of hillsides of twenty five percent (25%) and greater and outside of the floodway. A waiver to this standard may only be considered for the following: <ol style="list-style-type: none"> a. For lot line shifts of parcels that are entirely within slopes of twenty five percent (25%) or greater to create a reasonable building envelope, and mountain overlay design review standards and all other city requirements are met.

				<p>b. For small, isolated pockets of twenty five percent (25%) or greater that are found to be in compliance with the purposes and standards of the mountain overlay district and this section.</p> <p>3. Corner lots shall have a property line curve or corner of a minimum radius of twenty five feet (25') unless a longer radius is required to serve an existing or future use.</p> <p>4. Side lot lines shall be within twenty degrees (20°) to a right angle or radial line to the street line.</p> <p>5. Double frontage lots shall not be created. A planting strip shall be provided along the boundary line of lots adjacent to arterial streets or incompatible zoning districts. Should a double frontage lot(s) be created out of necessity, then such lot(s) shall be reversed frontage lot(s).</p> <p>6. Minimum lot sizes in all cases shall be reversed frontage lot(s).</p> <p>7. Every lot in a subdivision shall have a minimum of twenty feet (20') of frontage on a dedicated public street or legal access via an easement of twenty feet (20') or greater in width. Easement shall be recorded in the office of the Blaine County recorder prior to or in conjunction with recordation of the final plat.</p>
			Staff Comments	<p><i>The Project complies with each of these requirements. A building envelope ("BE") will be reflected on the final plat consistent with the approved final Agreement for the Project. Subject BE will reflect the Council's final approval on FAR, corner lot radii sight line requirements, and front/side yard setbacks. The BE shall not encroach within 25' of Trail Creek or the edge of ITD ROW.</i></p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.G	<p>G. Block Requirements: The length, width and shape of blocks within a proposed subdivision shall conform to the following requirements:</p> <p>1. No block shall be longer than one thousand two hundred feet (1,200'), nor less than four hundred feet (400') between the street intersections, and shall have sufficient depth to provide for two (2) tiers of lots.</p> <p>2. Blocks shall be laid out in such a manner as to comply with the lot requirements.</p> <p>3. The layout of blocks shall take into consideration the natural topography of the land to promote access within the subdivision and minimize cuts and fills for roads and minimize adverse impact on environment, watercourses and topographical features.</p> <p>4. Corner lots shall contain a building envelope outside of a seventy-five foot (75') radius from the intersection of the streets.</p>
			Staff Comments	<p><i>This application does not create a new block. This requirement is not applicable. Notwithstanding, a Building Envelope ("BE") will be reflected on the final plat consistent with the approved final Agreement for the Project. Subject BE will reflect the Council's final approval on corner lot radii sight line requirements.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.H	<p>Street Improvement Requirements:</p> <p>1. The arrangement, character, extent, width, grade and location of all streets put in the proposed subdivision shall conform to the comprehensive plan and shall be considered in their relation to existing and planned streets, topography, public convenience and safety, and the proposed uses of the land;</p> <p>2. All streets shall be constructed to meet or exceed the criteria and standards set forth in chapter 12.04 of this code, and all other applicable ordinances, resolutions or regulations of the city or any other governmental entity having jurisdiction, now existing or adopted, amended or codified;</p>

			<p>3. Where a subdivision abuts or contains an existing or proposed arterial street, railroad or limited access highway right of way, the council may require a frontage street, planting strip, or similar design features;</p> <p>4. Streets may be required to provide access to adjoining lands and provide proper traffic circulation through existing or future neighborhoods;</p> <p>5. Street grades shall not be less than three-tenths percent (0.3%) and not more than seven percent (7%) so as to provide safe movement of traffic and emergency vehicles in all weather and to provide for adequate drainage and snow plowing;</p> <p>6. In general, partial dedications shall not be permitted, however, the council may accept a partial street dedication when such a street forms a boundary of the proposed subdivision and is deemed necessary for the orderly development of the neighborhood, and provided the council finds it practical to require the dedication of the remainder of the right of way when the adjoining property is subdivided. When a partial street exists adjoining the proposed subdivision, the remainder of the right of way shall be dedicated;</p> <p>7. Dead end streets may be permitted only when such street terminates at the boundary of a subdivision and is necessary for the development of the subdivision or the future development of the adjacent property. When such a dead end street serves more than two (2) lots, a temporary turnaround easement shall be provided, which easement shall revert to the adjacent lots when the street is extended;</p> <p>8. A cul-de-sac, court or similar type street shall be permitted only when necessary to the development of the subdivision, and provided, that no such street shall have a maximum length greater than four hundred feet (400') from entrance to center of turnaround, and all cul-de-sacs shall have a minimum turnaround radius of sixty feet (60') at the property line and not less than forty five feet (45') at the curb line;</p> <p>9. Streets shall be planned to intersect as nearly as possible at right angles, but in no event at less than seventy degrees (70°);</p> <p>10. Where any street deflects an angle of ten degrees (10°) or more, a connecting curve shall be required having a minimum centerline radius of three hundred feet (300') for arterial and collector streets, and one hundred twenty five feet (125') for minor streets;</p> <p>11. Streets with centerline offsets of less than one hundred twenty five feet (125') shall be prohibited;</p> <p>12. A tangent of at least one hundred feet (100') long shall be introduced between reverse curves on arterial and collector streets;</p> <p>13. Proposed streets which are a continuation of an existing street shall be given the same names as the existing street. All new street names shall not duplicate or be confused with the names of existing streets within Blaine County, Idaho. The subdivider shall obtain approval of all street names within the proposed subdivision from the commission before submitting same to council for preliminary plat approval;</p> <p>14. Street alignment design shall follow natural terrain contours to result in safe streets, usable lots, and minimum cuts and fills;</p> <p>15. Street patterns of residential areas shall be designed to create areas free of through traffic, but readily accessible to adjacent collector and arterial streets;</p>
--	--	--	---

				<p>16. Reserve planting strips controlling access to public streets shall be permitted under conditions specified and shown on the final plat, and all landscaping and irrigation systems shall be installed as required improvements by the subdivider;</p> <p>17. In general, the centerline of a street shall coincide with the centerline of the street right of way, and all crosswalk markings shall be installed by the subdivider as a required improvement;</p> <p>18. Street lighting may be required by the commission or council where appropriate and shall be installed by the subdivider as a requirement improvement;</p> <p>19. Private streets may be allowed upon recommendation by the commission and approval by the council. Private streets shall be constructed to meet the design standards specified in subsection H2 of this section;</p> <p>20. Street signs shall be installed by the subdivider as a required improvement of a type and design approved by the administrator and shall be consistent with the type and design of existing street signs elsewhere in the city;</p> <p>21. Whenever a proposed subdivision requires construction of a new bridge, or will create substantial additional traffic which will require construction of a new bridge or improvement of an existing bridge, such construction or improvement shall be a required improvement by the subdivider. Such construction or improvement shall be in accordance with adopted standard specifications;</p> <p>22. Sidewalks, curbs and gutters may be a required improvement installed by the subdivider; and</p> <p>23. Gates are prohibited on private roads and parking access/entranceways, private driveways accessing more than one single-family dwelling unit and one accessory dwelling unit, and public rights of way unless approved by the city council.</p>
			Staff Comments	<i>The Project does not create a new street. With the exception of Street lighting these standards are not applicable. Street lighting in compliance with City standards is required of the Applicant consistent with this standard.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.I	<p>Alley Improvement Requirements: Alleys shall be provided in business, commercial and light industrial zoning districts. The width of an alley shall be not less than twenty feet (20'). Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be provided to permit safe vehicular movement. Dead end alleys shall be prohibited. Improvement of alleys shall be done by the subdivider as required improvement and in conformance with design standards specified in subsection H2 of this section.</p>
			Staff Comments	<i>This proposal does not create a new alley. This standard is not applicable.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.J	<p>Required Easements: Easements, as set forth in this subsection, shall be required for location of utilities and other public services, to provide adequate pedestrian circulation and access to public waterways and lands.</p> <p>1. A public utility easement at least ten feet (10') in width shall be required within the street right of way boundaries of all private streets. A public utility easement at least five feet (5') in width shall be required within property boundaries adjacent to Warm Springs Road and within any other property boundary as determined by the city engineer to be necessary for the provision of adequate public utilities.</p> <p>2. Where a subdivision contains or borders on a watercourse, drainageway, channel or stream, an easement shall be required of sufficient width to contain</p>

				<p>such watercourse and provide access for private maintenance and/or reconstruction of such watercourse.</p> <p>3. All subdivisions which border the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a ten foot (10') fish and nature study easement along the riverbank. Furthermore, the council shall require, in appropriate areas, an easement providing access through the subdivision to the bank as a sportsman's access. These easement requirements are minimum standards, and in appropriate cases where a subdivision abuts a portion of the river adjacent to an existing pedestrian easement, the council may require an extension of that easement along the portion of the riverbank which runs through the proposed subdivision.</p> <p>4. All subdivisions which border on the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a twenty five foot (25') scenic easement upon which no permanent structure shall be built in order to protect the natural vegetation and wildlife along the riverbank and to protect structures from damage or loss due to riverbank erosion.</p> <p>5. No ditch, pipe or structure for irrigation water or irrigation wastewater shall be constructed, rerouted or changed in the course of planning for or constructing required improvements within a proposed subdivision unless same has first been approved in writing by the ditch company or property owner holding the water rights. A written copy of such approval shall be filed as part of required improvement construction plans.</p> <p>6. Nonvehicular transportation system easements including pedestrian walkways, bike paths, equestrian paths, and similar easements shall be dedicated by the subdivider to provide an adequate nonvehicular transportation system throughout the city.</p>
			Staff Comments	<p><i>A ten-foot (10') fishermen's easement needs to be shown on the plat in accordance with subsection 3 herein. The required twenty-five foot (25') riparian and scenic easement along Trail Creek is established in accordance with subsection 4. Standards #1,2, 5 & 6 are not applicable.</i></p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.K	<p>Sanitary Sewage Disposal Improvements: Central sanitary sewer systems shall be installed in all subdivisions and connected to the Ketchum sewage treatment system as a required improvement by the subdivider. Construction plans and specifications for central sanitary sewer extension shall be prepared by the subdivider and approved by the city engineer, council and Idaho health department prior to final plat approval. In the event that the sanitary sewage system of a subdivision cannot connect to the existing public sewage system, alternative provisions for sewage disposal in accordance with the requirements of the Idaho department of health and the council may be constructed on a temporary basis until such time as connection to the public sewage system is possible. In considering such alternative provisions, the council may require an increase in the minimum lot size and may impose any other reasonable requirements which it deems necessary to protect public health, safety and welfare.</p>
			Staff Comments	<p><i>N/A as the existing development connects to the public sewage system.</i></p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.L	<p>Water System Improvements: A central domestic water distribution system shall be installed in all subdivisions by the subdivider as a required improvement. The subdivider shall also be required to locate and install an adequate number of fire hydrants within the proposed subdivision according to specifications and requirements of the city under the supervision of the Ketchum fire department</p>

				and other regulatory agencies having jurisdiction. Furthermore, the central water system shall have sufficient flow for domestic use and adequate fire flow. All such water systems installed shall be looped extensions, and no dead end systems shall be permitted. All water systems shall be connected to the municipal water system and shall meet the standards of the following agencies: Idaho department of public health, Idaho survey and rating bureau, district sanitarian, Idaho state public utilities commission, Idaho department of reclamation, and all requirements of the city.
			Staff Comments	<i>N/A as water system improvements are existing.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.M	Planting Strip Improvements: Planting strips shall be required improvements. When a predominantly residential subdivision is proposed for land adjoining incompatible uses or features such as highways, railroads, commercial or light industrial districts or off street parking areas, the subdivider shall provide planting strips to screen the view of such incompatible features. The subdivider shall submit a landscaping plan for such planting strip with the preliminary plat application, and the landscaping shall be a required improvement.
			Staff Comments	<i>This standard is not applicable.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.N	<p>Cuts, Fills, And Grading Improvements: Proposed subdivisions shall be carefully planned to be compatible with natural topography, soil conditions, geology and hydrology of the site, as well as to minimize cuts, fills, alterations of topography, streams, drainage channels, and disruption of soils and vegetation. The design criteria shall include the following:</p> <ol style="list-style-type: none"> 1. A preliminary soil report prepared by a qualified engineer may be required by the commission and/or council as part of the preliminary plat application. 2. Preliminary grading plan prepared by a civil engineer shall be submitted as part of all preliminary plat applications. Such plan shall contain the following information: <ol style="list-style-type: none"> a. Proposed contours at a maximum of five foot (5') contour intervals. b. Cut and fill banks in pad elevations. c. Drainage patterns. d. Areas where trees and/or natural vegetation will be preserved. e. Location of all street and utility improvements including driveways to building envelopes. f. Any other information which may reasonably be required by the administrator, commission or council to adequately review the affect of the proposed improvements. 3. Grading shall be designed to blend with natural landforms and to minimize the necessity of padding or terracing of building sites, excavation for foundations, and minimize the necessity of cuts and fills for streets and driveways. 4. Areas within a subdivision which are not well suited for development because of existing soil conditions, steepness of slope, geology or hydrology shall be allocated for open space for the benefit of future property owners within the subdivision. 5. Where existing soils and vegetation are disrupted by subdivision development, provision shall be made by the subdivider for revegetation of disturbed areas with perennial vegetation sufficient to stabilize the soil upon completion of the construction. Until such times as such revegetation has been installed and established, the subdivider shall maintain and protect all disturbed surfaces from erosion.

				<p>6. Where cuts, fills, or other excavations are necessary, the following development standards shall apply:</p> <p>a. Fill areas shall be prepared by removing all organic material detrimental to proper compaction for soil stability.</p> <p>b. Fills shall be compacted to at least ninety five percent (95%) of maximum density as determined by AASHTO T99 (American Association of State Highway Officials) and ASTM D698 (American standard testing methods).</p> <p>c. Cut slopes shall be no steeper than two horizontal to one vertical (2:1). Subsurface drainage shall be provided as necessary for stability.</p> <p>d. Fill slopes shall be no steeper than three horizontal to one vertical (3:1). Neither cut nor fill slopes shall be located on natural slopes of three to one (3:1) or steeper, or where fill slope toes out within twelve feet (12') horizontally of the top and existing or planned cut slope.</p> <p>e. Toes of cut and fill slopes shall be set back from property boundaries a distance of three feet (3'), plus one-fifth (1/5) of the height of the cut or the fill, but may not exceed a horizontal distance of ten feet (10'); tops and toes of cut and fill slopes shall be set back from structures at a distance of at least six feet (6'), plus one-fifth (1/5) of the height of the cut or the fill. Additional setback distances shall be provided as necessary to accommodate drainage features and drainage structures.</p>
			Staff Comments	<i>The Applicant has submitted a soils report and landscaping plan for the Project. As conditioned herein, prior to grading occurring on the new Lot 3A, City approval of the Applicant's grading, drainage and landscaping construction drawings is required. Subject construction drawings shall be consistent in concept with approved Design Review, Encroachment Permit, and related drawings.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.O	<p>Drainage Improvements: The subdivider shall submit with the preliminary plat application such maps, profiles, and other data prepared by an engineer to indicate the proper drainage of the surface water to natural drainage courses or storm drains, existing or proposed. The location and width of the natural drainage courses shall be shown as an easement common to all owners within the subdivision and the city on the preliminary and final plat. All natural drainage courses shall be left undisturbed or be improved in a manner that will increase the operating efficiency of the channel without overloading its capacity. An adequate storm and surface drainage system shall be a required improvement in all subdivisions and shall be installed by the subdivider. Culverts shall be required where all water or drainage courses intersect with streets, driveways or improved public easements and shall extend across and under the entire improved width including shoulders.</p>
			Staff Comments	<i>Prior to grading occurring on the new Lot 3A, City approval of the Applicant's grading, drainage and landscaping construction drawings is required. Subject construction drawings shall be consistent in concept with approved Design Review, Encroachment Permit, and related drawings.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.P	<p>Utilities: In addition to the terms mentioned in this section, all utilities including, but not limited to, electricity, natural gas, telephone and cable services shall be installed underground as a required improvement by the subdivider. Adequate provision for expansion of such services within the subdivision or to adjacent lands including installation of conduit pipe across and underneath streets shall be installed by the subdivider prior to construction of street improvements.</p>
			Staff Comments	<i>N/A as the subject property is served by existing utilities.</i>

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.Q	Off Site Improvements: Where the offsite impact of a proposed subdivision is found by the commission or council to create substantial additional traffic, improvements to alleviate that impact may be required of the subdivider prior to final plat approval, including, but not limited to, bridges, intersections, roads, traffic control devices, water mains and facilities, and sewer mains and facilities.
			Staff Comments	<i>No off-site improvements are required as a condition of platting new Lot 3A.</i>

12. The issuance of a building permit for the construction of the PUDCUP Master Plan will be subject to the terms and conditions of the City Council's final action on the PUDCUP inclusive of final City action on the PUDCUP design review and the relevant terms and conditions of the City Council's final approved action on the Permit Acceptance Agreement.

CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation organized under Article XII of the Idaho Constitution and the laws of the State of Idaho, Title 50, Idaho Code.
2. Pursuant to I.C. § 67-6513 the City, by ordinance which is codified as Chapter 16.04 of the Ketchum City Code, has by ordinance adopted standards and a process for applications for subdivision permits as provided in I.C. § 50-1301 through 50-1329.
3. The City of Ketchum Planning Department provided adequate notice of the time, place and summary of the applicant's proposal to be heard by the Council for review of this application.
4. The Lot Line Adjustment Application does meet the standards of approval under Title 16, Chapter 16.04, subject to conditions of approval.

ORDER OF DECISION

Based upon the above and foregoing Findings of Fact/Conclusions of Law and good cause appearing from the record, IT IS HEREBY ORDERED AND THIS DOES ORDER THAT:

Order No. 1: These First Amended and Reformed Findings of Fact, Conclusions of Law and Decision amend and reform and supersede the original Findings of Fact, Conclusions of Law and Decision of the City Council in this matter entered on February 3, 2020.

Order No. 2: Applicant's Lot Line Adjustment Application preliminary plat, to combine three parcels (251 S. Main Street – Ketchum Townsite Lots 3, 21, FR 22 Blk 82 N 10' x 110' of alley S 20' x 230' of alley, 260 E. River Street – Ketchum Townsite Lot 2 Block 82 10' x 110' of alley, and 280 E. River Street – Ketchum Townsite Lot 1 Block 82) into one lot, referenced as Lot 3A, Block 82, Ketchum Townsite, as stamped by Mark Phillips with Galena Engineers on 6/12/2019, is approved subject to the following fourteen (14) conditions:

Condition No. 1: The recorded final plat shall show a minimum of two Blaine County Survey Control Monuments with ties to the property and an inverse between the two monuments. The Survey Control Monuments shall be clearly identified on the face of the map;

Condition No. 2: An electronic CAD file shall be submitted to the City of Ketchum prior to final plat signature by the City Clerk. The electronic CAD file shall be submitted to the Blaine County Recorder's office concurrent with the recording of the Plat containing the following minimum data:

- a. Line work delineating all parcels and roadways on a CAD layer/level designated as "parcel";
- b. Line work delineating all roadway centerlines on a CAD layer/level designated as "road"; and,
- c. Line work that reflects the ties and inverses for the Survey Control Monuments shown on the face of the Plat shall be shown on a CAD layer/level designated as "control";

Condition No. 3: All information within the electronic file shall be oriented and scaled to Grid per the Idaho State Plane Coordinate System, Central Zone, NAD1983 (1992), U.S. Survey Feet, using the Blaine County Survey Control Network. Electronic CAD files shall be submitted in a ".dwg", ".dgn" or ".shp" format and shall be submitted digitally to the City on a compact disc. When the endpoints of the lines submitted are indicated as coincidental with another line, the CAD line endpoints shall be separated by no greater than 0.0001 drawing units;

Condition No. 4: The applicant shall provide a copy of the recorded final plat with its recorded instrument number to the Department of Planning and Building for the official file on the application;

Condition No. 5: All requirements of the Fire, Utility, Building, Planning and Public Works departments of the City of Ketchum shall be met. All public improvements shall meet the requirements of the Public Works Department, including a cost estimate for unfinished sidewalk and street lighting improvements along River Street at 150% of engineering estimates;

Condition No. 6: All other provisions of Ketchum Municipal Code, Chapter 16, Subdivision Regulations, and all applicable ordinances rules and regulations of the city and other governmental entities having jurisdiction shall be complied with by the subdivision;

Condition No. 7: The Project proposes waivers to the side yard setbacks, floor area ratio and height requirements and, subject to approval of the PUDCUP application;

Condition No. 8: An encroachment permit will be required for all improvements to public right of way. A full utility plan will be required prior to final plat recordation and infrastructure construction;

Condition No. 9: A twenty-five foot (25') riparian and scenic easement is shown on the plat. Any work in this area is subject to separate floodplain rules and regulations;

Condition No. 10: A ten-foot (10') fishermen's easement adjacent to the OHWM of Trail Creek needs to be shown and recorded on the plat;

Condition No. 11: A Building Envelope ("BE") will be reflected on the final plat consistent with the City Council's final approvals of the PUDCUP and the Permit Acceptance Agreement. Subject BE will reflect the Council's final approval on FAR, corner lot radii sight line requirements, and side yard setbacks. The BE shall not encroach within 25' of Trail Creek or the edge of ITD ROW;

Condition No. 12: The removal of existing mature trees and/or established shrub masses is subject to approval and adoption of the Applicant's landscape plan through the Design Review and/or Floodplain Development Permit process;

Condition No. 13: An encroachment permit from ITD as well as the City will be required for all improvements to public right of way, including the construction of a sidewalk not less than eight-feet (8') in width along River Street. As a condition of Plat approval, subject sidewalk and street lighting to city standards shall be installed prior to final plat recordation unless otherwise approved by the Ketchum City Council; and

Condition No. 14: Prior to grading occurring on the New Lot 3A, City approval of the Applicant's grading, drainage and landscaping construction drawings is required. Subject construction drawings shall be consistent in concept with approved Design Review, Encroachment Permit, and related drawings.

Order No. 3 Not a Final Action: These Findings of Fact, Conclusions of Law and Order of Decision are not a final action of the City Council on this Lot Line Adjustment Application preliminary plat until the following conditions subsequent have occurred:

3.1 There is a final action by the City upon the Design Review of the PUDCUP; and

3.2 The City Council has taken final action upon the Permit Acceptance Agreement.

First Amended and Reformed Findings of Fact **adopted** this ____ day of _____ 2020.

Neil Bradshaw, Mayor

Robin Crotty, City Clerk

Notice to Applicant

The subject Lot Line Adjustment Application for preliminary plat concerns a site-specific land use request and therefore this notice is provided to the applicant pursuant to I.C. § 67-6535 (3) of the applicant's right to request a regulatory taking analysis pursuant to section 67-8003, Idaho Code.



City of Ketchum

March 2nd, 2020

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

Recommendation to Hold a Public Hearing and Approve the Readjustment of Lot Lines Application for the West Ketchum Residences Project

Recommendation and Summary

Staff recommends the Ketchum City Council hold a public hearing and approve the West Ketchum Residences Readjustment of Lot Lines application to remove the property lines separating Lots 5A, 6A, 7A, and 8A to form Lot 5AA of Bavarian Village Subdivision.

Recommended Motion: "I move to approve the West Ketchum Residences Readjustment of Lot Lines application subject to conditions 1-8."

The reasons for the recommendation are as follows:

- Staff has reviewed the vacation of Wick Strasse right-of-way in 2015 and found that the developer was not required to install sidewalks at that time. The West Ketchum Residences project shall comply with all conditions and requirements associated with the vacation.
- The request to change the lot configuration within the Bavarian Village Subdivision meets all applicable standards for Readjustment of Lot Lines contained in Ketchum Municipal Code's (KMC) Subdivision (Title 16) regulations.

Analysis

When this application was first considered on February 18th, the Ketchum City Council discussed the vacation of Wick Strasse right-of-way in 2015. The Council moved to continue review of the application and directed Staff to research if the installation of sidewalks was required as a condition of the 2015 vacation. The vacation did not require the developer to install sidewalks. Staff has added a condition of approval to this application that the West Ketchum Residences project must comply with all requirements of the 2015 Wick Strasse Right-of-Way Vacation, which includes the transfer of the well water right.

The zoning code requires that developers install sidewalks in the Community Core, Tourist Zone, and Light Industrial districts (Ketchum Municipal Code §17.124.140), but not in residential neighborhoods. The City has the flexibility to choose whether or not to require sidewalks in residential areas through other provisions of Ketchum Municipal Code (Ketchum Municipal Code §12.04.030.M & §17.96.060.B).

Financial Impact

No financial impact as the application proposes a minor change to an existing plat of record.

Attachments

- A. Draft Findings of Fact, Conclusions of Law, and Decision
- B. Bavarian Village Subdivision: Block 1: Lot 5AA
- C. Wick Strasse Right-of-Way Vacation: Findings of Fact, Conclusions of Law, and Decision & Ordinance Number 1124

Attachment A:

Draft Findings of Fact,
Conclusions of Law, and
Decision



City of Ketchum
Planning & Building

IN RE:)
)
West Ketchum Residences) KETCHUM CITY COUNCIL
Readjustment of Lot Lines Procedure) FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
Date: February 18, 2020) DECISION
)
File Number: P19-142)

PROJECT: West Ketchum Residences Readjustment of Lot Lines

APPLICATION TYPE: Readjustment of Lot Lines

FILE NUMBER: P19-142

ASSOCIATED PERMITS: Design Review P19-143

OWNERS: West Ketchum Residences, LLC

REPRESENTATIVE: Robert Parker & Galena Engineering

REQUEST: Readjustment of Lot Lines procedure to vacate the common boundary lines between Lots 5A, 6A, 7A, & 8A as well as the associated private access and public utility easement within Bavarian Village Subdivision to form amended Lot 5AA.

LOCATION: Bavarian Village Subdivision Lots 5A, 6A, 7A, & 8A (156 Wick Strasse & 150, 152, and 154 Bird Drive)

NOTICE: A public hearing notice was mailed to all property owners within 300 ft of the development site and political subdivisions on January 29, 2020. The public hearing notice was published in the Idaho Mountain Express on January 29, 2020.

ZONING: General Residential High Density (GR-H) Zoning District

OVERLAY: None

FINDINGS OF FACT

1. The Readjustment of Lot Lines procedure will vacate the common boundary lines between Lots 5A, 6A, 7A, & 8A as well as the associated private access and public utility easement within Bavarian Village Subdivision to form amended Lot 5AA.
2. The application will combine 4 vacant lots to form the 1.09 acre project site for the West Ketchum Residences, a new 10-unit townhome development within 5 duplexes.

3. Each townhome unit will have its own garage accessed from a snow-melted, private driveway. This application removes a recorded access easement that will be replaced by the shared private driveway. This proposed access includes a fire truck turnaround, which has been reviewed and approved by the Fire Department, Streets Department, and City Engineer.
4. Consistent with KMC §16.04.020, the proposal meets the definition of Readjustment of Lot Lines because: (1) Lot 5AA complies with the dimensional standards required for properties located within the General Residential High Density (GR-H) Zoning District, and (2) the proposal does not create additional lots or dwelling units.

READJUSTMENT OF LOT LINES: *A change or modification of the boundary lines between existing lots or parcels of land or between dwelling units which does not reduce the area, frontage, width, depth or building setback lines of each lot below the minimum zoning requirements and which does not create additional lots or dwelling units. "Readjustment of lot lines" includes other minor changes to a subdivision, condominium, or townhouse plat such as, but not limited to, notation changes, boundary shifts and removal of lot line(s), each of which do not reduce the area, frontage, width, depth or building setback lines of each lot below the minimum zoning requirements nor create additional lots or dwelling units (KMC §16.04.020).*

5. Consistent with KMC §16.04.060.B, the Readjustment of Lot Lines application was transmitted to City Departments including the City Engineer, Fire, Building, Utilities, and Streets departments for review. The City Departments had no comments or concerns regarding the proposal.
6. All land, condominium, and townhouse subdivisions in the City of Ketchum are subject to the standards contained in Ketchum Municipal Code, Title 16, Subdivision. Many standards are related to the design and construction of multiple new lots that will form new blocks and infrastructure, such as streets that will be dedicated to and maintained by the City. The standards for certain improvements (KMC §16.04.040) including street, sanitary sewage disposal, planting strip improvements are not applicable to the subject project as the application proposes to designate existing common area as limited common area. The proposed Fisher Condominiums: Units A & 2A Subdivision Plat meets the standards for Readjustment of Lot Lines under Title 16 of Ketchum Municipal Code subject to conditions of approval. The Readjustment of Lot Lines does not change the existing residential use or alter the existing development.

CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation established in accordance with Article XII of the Constitution of the State of Idaho and Title 50 Idaho Code and is required and has exercised its authority pursuant to the Local Land Use Planning Act codified at Chapter 65 of Title 67 Idaho Code and pursuant to Chapters 3, 9 and 13 of Title 50 Idaho Code to enact the Ordinances and regulations, which Ordinances are codified in the Ketchum City Code ("KMC") and are identified in the Findings of Fact and which are herein restated as Conclusions of Law by this reference and which City Ordinances govern the applicant's Readjustment of Lot Line application for the development and use of the project site.
2. The Council has authority to hear the applicant's Condominium Subdivision application pursuant to Chapter 16.04 of Ketchum Code Title 16.
3. The City of Ketchum Planning Department provided adequate notice for the review of this application.
4. The Readjustment of Lot Lines application is governed under Sections 16.04.010, 16.04.020, 16.04.30, 16.04.060, and 16.04.070 of Ketchum Municipal Code Chapter 16.04.

5. The proposed Bavarian Village Subdivision: Block 1: Lot 5AA Subdivision Plat meets the standards for approval under Title 16 of Ketchum Municipal Code subject to conditions of approval.

DECISION

THEREFORE, the Ketchum City Council **approves** this Condominium Subdivision Final Plat application this Monday, March 2nd, 2020 subject to the following conditions:

CONDITIONS OF APPROVAL

1. The recorded plat shall show a minimum of two Blaine County Survey Control Monuments with ties to the property and an inverse between the two monuments. The Survey Control Monuments shall be clearly identified on the face of the map.
2. An electronic CAD file shall be submitted to the City of Ketchum prior to final plat signature by the City Clerk. The electronic CAD file shall be submitted to the Blaine County Recorder's office concurrent with the recording of the Plat containing the following minimum data:
 - a. Line work delineating all parcels and roadways on a CAD layer/level designated as "parcel";
 - b. Line work delineating all roadway centerlines on a CAD layer/level designated as "road"; and,
 - c. Line work that reflects the ties and inverses for the Survey Control Monuments shown on the face of the Plat shall be shown on a CAD layer/level designated as "control"; and,
 - d. All information within the electronic file shall be oriented and scaled to Grid per the Idaho State Plane Coordinate System, Central Zone, NAD1983 (1992), U.S. Survey Feet, using the Blaine County Survey Control Network. Electronic CAD files shall be submitted in a ".dwg", ".dgn" or ".shp" format and shall be submitted digitally to the City on a compact disc. When the endpoints of the lines submitted are indicated as coincidental with another line, the CAD line endpoints shall be separated by no greater than 0.0001 drawing units.
5. The applicant shall provide a copy of the recorded Final Plat and the associated condominium owners' documents to the Planning and Building Department for the official file on the application.
6. The Final Plat mylar shall contain all items required under Title 50, Chapter 13, Idaho Code as well as all items required pursuant to KMC §16.04.030J including certificates and signatures.
7. All governing ordinances and department conditions pertinent to the Fire Department, Building Department, Utilities Department, Street Department and Ketchum City Engineer shall be met.
8. The project shall meet all conditions specified in the Findings of Fact, Conclusions of Law, and Decision for the Wick Strasse Right-of-Way Vacation approved by Ketchum City Council on December 1, 2014 and shall comply with all provisions of Ordinance Number 1124 approved by the Ketchum City Council on January 5, 2015.

Findings of Fact **adopted** this 2nd day of March, 2020

Neil Bradshaw, Mayor

Robin Crotty, City Clerk

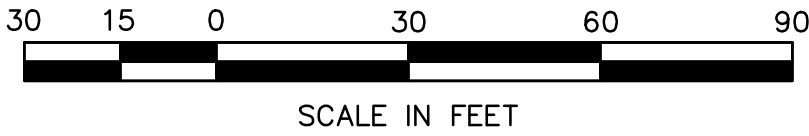
Attachment B:
Bavarian Village Subdivision:
Block 1: Lot 5AA

A PLAT SHOWING
LOT 5AA, BLOCK 1, BAVARIAN VILLAGE SUBDIVISION

WHEREIN THE COMMON BOUNDARY LINES OF LOTS 5A, 6A, 7A, & 8A, ARE VACATED AS SHOWN AND THE PRIVATE ACCESS & PUBLIC UTILITY
EASEMENT TO BENEFIT LOTS 5A, 6A, 7A, & 8A, IS VACATED AS SHOWN

LOCATED WITHIN SECTION 13, T.4 N., R.17 E., B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO

DECEMBER 2019



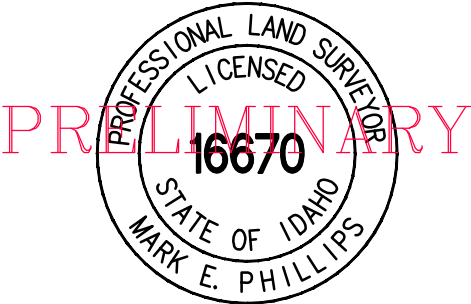
SCALE: 1" = 30'

LEGEND

- Property Line
- Adjoiner's Lot Line
- Lot Line to be Vacated Hereon
- Easement to be Vacated (See Note 4)
- Easements per Instrument Numbers 660648, 660804, 661177, & 661178 (See Note 4)
- Proposed Easement, type & width as shown
- GIS Tie Line
- Found 1/2" Rebar
- Found 5/8" Rebar
- Record Bearing & Distance, Bavarian Village Subdivision: Lots 3A, 4A, 5A, 6A, 7A, & 8A, Instrument Number 631181

SURVEY NARRATIVE & NOTES

- The purpose of this survey is to vacate the common lot lines to lots 5A, 6A, 7A, & 8A, Block 1, Bavarian Village Subdivision, creating Lot 5AA, Block 1, Bavarian Village Subdivision, as shown, vacate the Private Access & Public Utility Easement to benefit Lots 5A, 6A, 7A, & 8A, vacate Utility Easements per instrument Numbers 660803 & 661188, records of Blaine County, Idaho, and show the monuments found during the boundary retracement of the lots listed above. The boundary shown is based on found monuments and the recorded plat of Bavarian Village Subdivision: Lots 3A, 4A, 5A, 6A, 7A & 8A, Instrument Number 631181, records of Blaine County, Idaho. All found monuments have been accepted. Additional Documents used in the course of this survey include; Bavarian Village Subdivision, Instrument Number 139821, records of Blaine County, Idaho.
- Except as specifically stated or depicted on this map, this survey does not purport to reflect any of the following which may be applicable to subject real property: natural hazards, encroachments, wetlands, easements, building setbacks, restrictive covenants, subdivision restrictions, zoning or any other land-use regulations. An independent title search has not been performed by the surveyor for this project.
- An ALTA Commitment for Title Insurance for Lots 5A, 6A, 7A, & 8A, Bavarian Village Subdivision, has been issued by Stewart Title Guaranty Company, File Number 1921742, with a Commitment Date of August 1, 2019. Certain information contained in said title policy may not appear on this map or may affect items shown hereon. It is the responsibility of the owner or agent to review said title policy. Some of the encumbrances and easements listed in the title report are NOT plotted hereon. Review of specific documents is required, if further information is desired.
- A Proposed 10' Public Utility Easement, extending from the Northeast Corner of the subject property, along Bird Drive, to the Southeast Corner of the subject property will encompass Utility Easements per Instrument Numbers 660648, 660804, 661177, & 661178, records of Blaine County, Idaho. The Vacation of Utility Easements per Instrument Numbers 660803 & 661188, records of Blaine County, Idaho, will need to be done with a separate document recorded after coordination with Idaho Power Company, since said easements were not created on a plat.
- The owner/subdivider is West Ketchum Residences, LLC c/o Robert Parker, PO Box 284, Sun Valley, ID 83353. The surveyor/representative is Mark Phillips, Galena Engineering Inc., 317 N River Street, Hailey, ID 83333.
- The Current Zoning is GR-H. Refer to the City of Ketchum Zoning Code for more information about this zone.
- Refer to the Engineering Base Drawing, prepared by Galena Engineering, Inc., for existing conditions and proposed improvements.



HEALTH CERTIFICATE: Sanitary restrictions as required by Idaho Code Title 50, Ch. 13, have been satisfied. Sanitary restrictions may be reimposed in accordance with Idaho Code Title 50, Ch. 13, Sec. 50-1326, by issuance of a Certificate of Disapproval.

Date _____ South Central Public Health District

MARK E. PHILLIPS, P.L.S. 16670

LOT 5AA, BLOCK 1,
BAVARIAN VILLAGE
SUBDIVISION
GALENA ENGINEERING, INC.
HAILEY, IDAHO

SHEET 1 OF 2

Job No. 7818

Attachment C:

Wick Strasse Right-of-Way
Vacation: Findings of Fact,
Conclusions of Law, and
Decision & Ordinance Number
1124

IN RE:)	
)	
Wick Strasse Street,)	KETCHUM CITY COUNCIL - FINDINGS
Petition to Vacate)	OF FACT, CONCLUSIONS OF LAW
City Rights of Way)	AND DECISION
)	

BACKGROUND FACTS

APPLICANT: TBDBV, LLC; BV, LLC – Dennis Hanggi and Glen H. Hamilton Trust, owners of Lots 1 and 5-8, within the subject subdivision.

REPRESENTATIVE: Benchmark Associates

REQUEST: Request to vacate the Wick Strasse Street right of way (adjacent to Lots 5-8, Bavarian Village Subdivision).

NOTICE: All requirements of notice have been met. Legal notice was published in the Mountain Express, a newspaper of general circulation, on October 29, 2014 and November 5, 2014. A notice of the public hearing regarding this matter was mailed by certified mail to property owners within 300 feet of the boundaries of the subject property on November 4, 2014.

ZONING: The subject area proposed for vacation is located in the General Residential – High Density Zone District (GR-H).

REVIEWER: Rebecca F. Bundy, Senior Planner

Regulatory Taking Notice: Applicant has the right, pursuant to section 67-8003, Idaho Code, to request a regulatory taking analysis.

GENERAL FINDINGS OF FACT

1. The applicant is petitioning the City of Ketchum to vacate the full portion of the Wick Strasse Street right of way. This right of way (which is partially paved) served as a driveway and parking court for what was once the Bavarian Village housing complex. Bavarian Village has since been razed and the property is vacant, with the exception of a water pump house.
2. The Planning and Zoning Commission conducted a public hearing on this application on September 22, 2014, and recommended approval to the City Council, subject to the proposed conditions below.
3. Based on discussions with the applicant and Idaho Power representatives, there are reportedly utilities (notably water lines and underground electric lines and related facilities) that are located on the subject property but have not been mapped by the applicant.

4. The applicants do not have a development plan (subdivision, PUD, multi-family etc.) proposed in conjunction with the requested vacation petition. Presently, lots that adjoin the Wick Strasse Street right of way are under ownership of the applicants, with Lot 5 belonging to Glen H. Hamilton Trust, Lot 6 belonging to TBDBV, LLC, and Lots 7 and 8 belonging to BV, LLC. Considering that all of the parcels in the subdivision are legally defined lots, they may be sold separately (except Lot 1) and change ownership at any time. With this in mind the city needs to ensure that all of the properties upon development can be served with city utilities, adequate access and meet city and applicable codes. (Lots 2, 3 and 4 are unaffected by the vacation, as they have access from Rember Street or Bird Drive.) According to the proposed plat, Lots 5, 6, 7, and 8 have frontage on the proposed new private road and gain area within each re-platted lot.) The applicant has submitted Declarations of Special Covenants, Conditions and Restrictions which name the City as a third party beneficiary to Section 1.C Declarant's Responsibility for Construction, which requires installation of all required utilities prior to issuance of a building permit for any of the properties bordering Wick Strasse Street. This document has been reviewed by the City Attorney to ensure that it adequately ensures installation of the utility lines and protects the City.

5. The owners within the subdivision currently possess a well, that was to be located in a one hundred (100) square foot Lot 1 at the southwest corner of Lot 6, but in actuality straddles the lot line between Lots 4 and 6. Upon development of the now vacant lots, the lots will be required to be served by Ketchum's municipal water service lines, and the well should be abandoned.

The City Council found that the applicant is amenable to said transfer and is researching his water right; therefore, prior to issuance of a building permit for any lot served by the currently named Wick Strasse Street or abandonment of the well, whichever comes first, the applicant shall transfer the water right for that well to the City. The means for said transfer shall be reviewed and approved by the City Attorney.

6. To better understand the developability of the land, the tables below provide an itemization based upon the zoning parameters of the GR-H Zoning District, if Wick Strasse Street were to be vacated as requested, with some assumptions. Those assumptions include a maximum FAR of 1.4, that units would be 1,800 square feet in size, maximum 35 foot height (likely needed to achieve maximum FAR), and calculated on developable lot area (excludes areas committed to a public or private street, alley, fire lane, private driveway easement). Many scenarios are possible and these assumptions are not moderate or the extreme, but they are possible. **Table 1** illustrates the developability of all of the lots within the Bavarian Village. **Table 2** illustrates only those lots (Lots 5, 6, 7, and 8) that would take access from Wick Strasse Street if vacated. (Lots 6 and 8 have frontage on Bird Drive, however, with Wick Strasse as a public street or vacated, upon development the City would require access from Wick Strasse versus Bird Drive to manage curb cuts and vehicular turning movements.) The potential of a high number of new units is very possible and must be considered.

The vacation of Wick Strasse Street results in a total of 5,719 square feet of lot area being added to Lots 5, 6, 7 and 8. This additional lot area results in an additional development

potential of about 8,000 square feet of gross floor area on those lots. Total possible development, assuming vacation of Wick Strasse Street as requested, is summarized below:

Table 1

Bavarian Village - Total Possible Development

	Area (sf)	Max FAR	Possible GFA
Lot 2	9078	1.4	12709.2
Lot 3	9078	1.4	12709.2
Lot 4	9047	1.4	12665.8
Lot 5	10115	1.4	14161
Lot 6	11444	1.4	16021.6
Lot 7	9365	1.4	13111
Lot 8	11168	1.4	15635.2
Max possible GFA			97013 sf
Assume 1800 sf/unit			53.9 possible units

Table 2

Possible Development Accessed by Wick Strasse

	Area (sf)	Max FAR	Possible GFA
Lot 5	10115	1.4	14161
Lot 6	11444	1.4	16021.6
Lot 7	9365	1.4	13111
Lot 8	11168	1.4	15635.2
Max possible GFA			58928.8 sf
Assume 1800 sf/unit			32.7 possible units

7. Attachments to the November 17, 2014 staff report:

A. Applicant's Submittal:

- ROW Vacation Application
- Applicant's Exhibit A & B
- Draft Declarations of Special Covenants, Conditions and Restrictions, received November 10, 2014
- Lawson letter dated, January 27, 2014
- Lawson letter dated, July 11, 2014

B. Correspondence from the public for the Planning and Zoning Commission's September 22, 2014 public hearing. No comment has been received for the City Council hearing.

- Cheryl Concannon, email, 9/11/14
- Clyde Holt, email, 9/11/14
- Elizabeth Insinger, email, 9/12/14

CONSIDERATIONS & RECOMMENDATION

1. All public rights of way and lands are entrusted to the City for the good of the community and should be evaluated with a long term perspective. Wick Strasse Street has been privately maintained in the past, and the Street Department would prefer not to maintain and perform snow removal on the dead end street in the future. In addition, the property contains a well, located on the lot line between Lots 4 and 6, that would be required to be abandoned upon application for building permits for those lots. The applicant discussed with the Council the possibility of granting that water right to the City and has agreed to initiate the process for doing so.
2. City staff have conducted site visits to the property, met with applicant representatives, and evaluated the value and potential purposes of the land proposed for vacation and the impact of the proposed vacation. Engaged in this review were representatives from the Fire Department, Streets Department, Utilities Department, and Parks and Recreation Department. One key concern of staff has to do with who would actually build the access road or driveway, and utilities to serve the adjoining lots. That has been determined in the Declarations of Special Covenants, Conditions and Restrictions to the City Attorney's satisfaction as follows, "Declarant's Responsibility for Construction. Declarant shall construct and install the right-of way described in paragraph A and the utility lines and facilities described in paragraph B, before the issuance by the City of a building permit for any improvement on the Property. As an incident of the work the well house on Lot 1 shall be removed. Declarant shall bear all costs related to the installation, operation, maintenance, repair and replacement of such right-of-way and utility facilities located in the Easement Area, shall repair to the original specifications any damage resulting from such use and shall provide as-built plans for all such improvements and facilities to the Owners within thirty (30) days after the date of completion of construction of same. An infrastructure construction plan shall be developed and submitted to the City before the commencement of any work by Declarant."

PROCESS AND CRITERIA FOR REVIEW

The Planning and Zoning Commission is a recommending body to the City Council on right of way vacations and has recommended approval of the current application. The City Council has conducted a duly-noticed public hearing on the matter. Title 16, Subdivision Ordinance, Ketchum Municipal Code offers the following for Vacations and Dedications:

16.04.050: VACATIONS AND DEDICATIONS:

- A. *Application: Any property owner desiring to vacate an existing public street, alley or easement right of way, or desiring to dedicate a street or alley right of way shall file an application with the administrator. Upon receipt of the completed application and other information reasonably required by the administrator, the date of acceptance of the application shall be affixed on the application. Thereafter, such application shall be placed upon the commission agenda for consideration at a regular meeting of the commission, and the procedures followed for such vacations shall comply with Idaho*

Code sections 50-1321, 50-1325 and 50-1306(A), including subsequent amendment or codification.

- B. Commission Action: The commission shall consider the application and testimony of the applicant and such other information as may come before it with regard to the proposed vacation or dedication. The commission shall consider the interests of the adjacent property owners, public utilities, conformance of the proposal with the comprehensive plan and the future development of the neighborhood, and shall make its recommendations for accepting or rejecting such application. If dedication of a street is accepted, recommendations for improvements to be made prior to the acceptance shall be made by the commission.*
- C. Council Action: In considering an application for vacation of an existing street, alley or easement right of way, the council shall establish a date for public hearing and give such notice as required by law. The council shall hear and consider the public testimony, applicant testimony, recommendations of the commission, and any other information as may be brought before the council. Whenever the council vacates an existing public street, the city shall provide adjacent property owners with a quitclaim deed for the vacated street as prescribed by law. Such vacation shall become effective upon delivery of such deed(s). When considering an application for dedication to the public of a street, alley or easement right of way, the council may require certain improvements be constructed or performance bond furnished prior to acceptance of the dedication. To complete the acceptance of any dedication, the council shall accept same by resolution or by approval of a final subdivision plat.*
- D. Exemptions: The provisions of this section shall not apply to the widening of any street which is shown in the comprehensive plan or the dedication of non-vehicular easements to the city. (Ord. 316 § 5, 1979)*

Findings:

- 1. This application has been made by the owner of all properties abutting the public right-of-way proposed for vacation, and said request for vacation has been adequately noticed, per I.C. 50-1321.
- 2. Portions of the right of way considered for vacation have been used by the surrounding properties for access and utility easements. Such uses may continue after vacation occurs.
- 3. The vacation has been found in the public interest because access issues, water rights, and development of the road/installation of utilities to each of the lots have been addressed to the Council's satisfaction.

CONCLUSIONS OF LAW

- 1. The City of Ketchum is a municipal corporation organized under Article XII of the Idaho Constitution and the laws of the State of Idaho, Title 50, Idaho Code.

2. Under Chapter 65, Title 67 of the Idaho Code, the City has passed a land use and subdivision ordinance, Title 16.

3. The City of Ketchum Planning Department provided adequate notice of the time, place and summary of the applicant's proposal to be heard by the City Council for review of this application.

4. The proposed vacation **does** meet the standards of approval under Idaho Code Section 50-311 and Ketchum Subdivision Code Title 16, Chapter 16.04.050, subject to conditions of approval.

DECISION

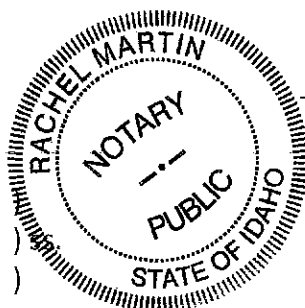
THEREFORE, the Ketchum City Council **approves** the request of TBDBV, LLC; BV, LLC – Dennis Hanggi and Glen H. Hamilton Trust, to vacate City right-of-way for Wick Strasse Street as shown in attached Attachment A, Exhibits A and B, subject to the following conditions:


1. Vehicular access to the lots contiguous with the currently named Wick Strasse Street, whether in its present location or in a future location, shall come off of said street and not off of Bird Drive.
2. Prior to issuance of a building permit for any lot served by the currently named Wick Strasse Street, the property owner shall submit civil engineered drawings, stamped by an engineer licensed in the State of Idaho, for street and utility improvements to serve all properties served by the Wick Strasse easement. Said drawing shall be reviewed and approved by the Public Works Director prior to issuance of building permit.
3. Prior to issuance of a building permit for any lot served by the currently named Wick Strasse Street or abandonment of the well on Lot 1, whichever comes first, the applicant shall transfer the water right for that well to the City. The means for said transfer shall be reviewed and approved by the City Attorney.

Findings of Fact **adopted** this 1st day of December, 2014.

STATE OF IDAHO

County of Blaine





Mayor Nina Jonas

On this 1st day of December, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared Nina Jonas, known or identified to me to be the person whose name is subscribed to the within instrument.

WITNESS my hand and seal the day and year in this certificate first above written.

Rachel Martin

Notary Public for Idaho

Residing at: Blaine County

Commission Expires: NOV 5, 2019

Attachment A:


- Exhibit A
- Exhibit B

EXHIBIT A

1. Refer to the original plan of the BAVARIAN VILLAGE SUBDIVISION for easements and conditions affecting this property.
2. Boundary lines and assessments shown herein are per plat.
3. The lot shown herein is not subdivided.
4. A Title Search has not been performed.
5. This Policy has not been submitted to Backus Associates, Inc. and the County of San Diego. A Title Search has not been performed. General information is provided herein for informational purposes only. No warranty is made as to the accuracy of the information. The user of this information is responsible for obtaining the necessary information to complete the transaction.
6. Utilities shown herein are per surface evidence only. The location of underground utilities and services should be confirmed prior to excavation or design.
7. Building walls shown herein are outside faces of building unless otherwise noted.
8. Eave/line from N070 29.

- LEGEND:**

[illegible]WICK STRASSE
VACATION EXHIBIT

	LOCATED WITHIN: SEC. 13, T4N, R17E, B.M., BLAINE COUNTY, IDAHO.
	PREPARED FOR: DENNIS MANGO
A SITE MAP	PLOT BY: DWS/GFL DATE: 01/07/2013
PROJECT NO. 19151	SHEET: 19151-5 OF 19151-5

PREPARED BY: BENCHMARK ASSOCIATES P.A.
P.O. BOX 753
KETCHUM, IDAHO, 83340

ORDINANCE NUMBER 1124

AN ORDINANCE VACATING WICK STRASSE RIGHT OF WAY CONTAINED WITHIN THE PLAT OF BAVARIAN VILLAGE SUBDIVISION, LOCATED WITHIN THE CITY OF KETCHUM, IDAHO, AND RECORDED UNDER INSTRUMENT NUMBER 139821 RECORDS OF BLAINE COUNTY, IDAHO; ABANDONING SAID RIGHT OF WAY, AND REVERTING SAID RIGHT OF WAY TO THE ADJOINING LANDOWNERS; AND, ESTABLISHING THE EFFECTIVE DATE HEREOF.

WHEREAS, the City of Ketchum conducted duly noticed public hearings and provided notice on the petition for vacation by TBDBV, LLC, BV, LLC – Dennis Hanggi, Glen H. Hamilton Trust, pursuant to Ketchum Municipal Code §16.04.050 and Idaho Code §50-1324 and 50-311;

WHEREAS, the City of Ketchum has determined that the Wick Strasse right of way within the Plat of Bavarian Village Subdivision has not been opened or used by the public for five (5) or more years for vehicular access, that it is not being used for access by the City; that it does not provide vehicular or non-motorized access to any other properties, and that access to prior development utilizing this right of way was developed and maintained by the property owners before the development was razed;

WHEREAS, the Petitioners have proposed to grant easements necessary to create a private drive and cul de sac to provide access to the adjacent Lot 5, 6, 7, and 8, Bavarian Village Subdivision for future development and have agreed that access to these lots shall be limited to the private drive and not permitted from any adjacent city street;

WHEREAS, the Petitioners will facilitate the transfer of water rights associated with the well that exists on Lot 6 of Bavarian Village Subdivision to the City of Ketchum recognizing that future development of the property will require connection to the City of Ketchum central water system;

WHEREAS, the Petitioners proposed and the City finds acceptable the recordation of Declarations of Special Covenants, Conditions and Restrictions which name the City as a third party beneficiary to ensure installation of required utilities prior to issuance of a building permit for any of the properties bordering Wick Strasse Street; and

WHEREAS, City of Ketchum has determined that it is in best interests of the public to vacate said Street and such vacation will not impair the rights of the adjoining landowners or the public,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO AS FOLLOWS:



SECTION 1. All of Wick Strasse Right of Way contained within the Plat of Bavarian Village Subdivision, located within the City of Ketchum, Idaho, and recorded under Instrument Number 139821, Records of Blaine County, Idaho, is hereby vacated and abandoned and reverts back to the adjoining landowners pursuant to Idaho Code §50-1324 and 50-311.

SECTION 2. SAVINGS AND SEVERABILITY CLAUSE. It is hereby declared to be the legislative intent that the provisions and parts of this Ordinance shall be severable. If any paragraph, part, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid for any reason by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3. CODIFICATION CLAUSE. The City Clerk is instructed to immediately forward this ordinance to the codifier of the official municipal code for proper revision of the code.

SECTION 4. PUBLICATION. This Ordinance shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

SECTION 5. REPEALER CLAUSE. All City of Ketchum code sections, ordinances or resolutions or parts thereof, which are in conflict herewith are hereby repealed.


SECTION 6. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO, and approved by the Mayor this 5th day of January, 2015.



Nina Jonas, Mayor

ATTEST:


Sandra E. Cady, CMC
City Treasurer/Clerk





City of Ketchum

March 2, 2020

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

Recommendation To Approve Contract 20454 With CORE | Headwaters Construction LLC for Construction Manager as General Contractor Services

Recommendation and Summary

Staff is recommending the council provide authorization to the Mayor to enter Contract 20454 with CORE | Headwaters LLC (CORE) to provide Construction Manager as General Contractor (CM/GC) Services and adopt the following motion:

"I move to approve Contract 20454 in an amount not to exceed \$42,812 with CORE | Headwaters LLC to provide pre-construction Construction Manager as General Contractor Services for the new fire station subject to legal review."

The reasons for the recommendation are as follows:

- On November 5, 2019, voters in the City of Ketchum approved a ballot question concerning the construction of a fire station.
- The City performed a procurement process in compliance with Idaho Statute 54-4511.
- CORE | Headwaters LLC was selected by a committee of City representatives as the most highly qualified proposer.

Introduction and History

On November 5, 2019, voters in the City of Ketchum approved a ballot question concerning the construction of a fire station using the proceeds from a \$11.5 million bond sale. The \$11.5 million project budget included all project elements.

The City will endeavor to use the construction-manager-as-general-contractor-at-risk delivery method for the fire station project. Idaho Code section 54-4511 provides a process for the public agencies seeking to use this project delivery method. Pursuant to the requirements of Idaho Code, the City intends to contract with CORE for pre-construction services during the design phase. In such an arrangement, CORE will partner with the City's architect (Cole Architects PLLC) and owner's representative (DPPM LLC) during the project design to provide constructability reviews, cost estimating, and similar non-construction professional services. Upon conclusion of the design, CORE will have an opportunity to provide a guaranteed maximum price (GMP) to the City for the construction portion of the project. The City is not obligated to accept CORE's GMP and may elect to pursue another competitive procurement for general contractor work rather than continuing with CORE. Award of the construction phase of the project will return for City Council approval.

Analysis

The City of Ketchum has historically contracted out similar construction work. So, on January 16, 2020, the City of Ketchum released a Request for Proposals (RFP) publicly on its website and also sent the documents to known construction project management firms. The RFP was additionally advertised in the Idaho Mountain Express on January 22 and 29, 2020, and continuously posted on several industry websites during the same period. On February 6, 2020, four proposals were received by the City of Ketchum.

A selection committee reviewed and evaluated the proposals. A short-list of the most highly ranked proposers was created, and interviews were scheduled with three firms on February 13, 2020. As a result of the evaluations, CORE is being recommended to the City Council for contract award.

The proposed contract is a two phased approach. The first phase are services related to pre-construction analysis and review. In the event the City and Core | Headwaters Construction LLC agree on a maximum guaranteed price for the project, staff will return to City Council for approval of the construction phase of this project.

Sustainability

The Council has directed staff to work towards a LEED Silver Certified building. The recommended action will further the goals of the 2020 Ketchum Sustainability Action Plan by building a sustainable structure with LEED Silver Certification.

Financial Impact

Voters in the City of Ketchum approved a ballot question concerning the construction of a fire station using the proceeds from a \$11.5 million bond sale. The \$42,812 contract for pre-construction services will be funded from that sale.

Attachments:

- Attachment A: CORE | Headwaters LLC Proposal
- Attachment B: Contract 20454

Cover Letter

February 6, 2020

Grant Gager, Director of Finance and Internal Services
City of Ketchum, Idaho
P.O. Box 2315
480 East Avenue North
Ketchum, Idaho 83340



Re: Request for Qualifications and Proposal to Provide CM/GC Services for the City of Ketchum Fire Station Project

Dear Mr. Gager and Selection Committee Members:

CORE Construction (CORE) and Headwaters Construction Company (Headwaters) have formed a joint venture company, CORE|Headwaters, LLC. (CORE|HW) to provide the City of Ketchum an opportunity to benefit from the experience and expertise of two industry-leading CM/GC firms as a **TEAM** for your project. Here are a few reasons why CORE|HW is uniquely qualified to exceed your expectations:

Local Relationships and National Resources - Headwaters, founded in Idaho, maintains great relationships with local subcontractors and suppliers, which will help keep dollars in Idaho and support the local economy. CORE, with 24 offices nationally, has over 83 years of experience with projects very similar to your fire station.

Exceptional CM/GC Services - The majority of our recent and current work resume includes projects using Alternative Project Delivery Methods for Public Works Clients, including CM/GC. Our team also has an exceptional history of repeat clients. These two qualifications — CM/GC and repeat clients — don't go together unless, as the CM/GC, we are providing the very best services available in the industry.

Fire Station Experience - Building fire stations is our passion. Having successfully constructed over **70+** fire stations across the United States, our team brings numerous lessons learned. This resume of similar projects will benefit the team as we work through the preconstruction phase of your project and provide cost, constructability, and bidability input. We are excited to share some of our unique and creative approaches to your project.

Commitment to the City of Ketchum - One of the many reasons fire stations are a great benefit in serving the general public is that they help to support the community. CORE|HW is committed to supporting the growth of your fire department facilities, and therefore the safety and well-being of the community. It is our objective to work alongside you, via a fostering collaborative partnership, to help you achieve your mission of delivering responsive municipal service and ultimately enhancing Ketchum's livability. **We only have one shot to get this right!**

Thank you for your careful review and consideration of our qualifications. Our entire team looks forward to this opportunity to serve you, and I am dedicated as your primary point of contact. Please feel free to contact me directly should you require any additional information and/or clarification.

CORE|HW is in receipt of, and acknowledges Addendum #1, dated January 29, 2020.

Warm Regards,

John Sanders III
Vice President

777 North 4th Street, Boise, ID 83702
T: (208) 314-1378 | C: (208) 789-3327
E: johnsanders@coreconstruction.com

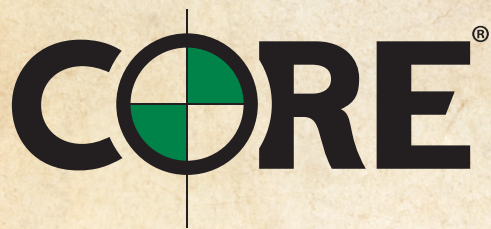
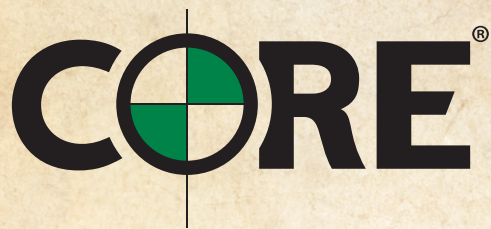


Table of Contents

1. Project Approach	1
2. Similar Experience	4
3. Key Personnel Experience	6
4. Staff Availability	9
5. Sample Project	10
6. References	21



Project Approach

Describe the firm's philosophy and approach to providing CM/GC Services for this project. Include a description of typical services provided, how the firm manages budgets and schedules, how the firm resolves design concerns, etc. Provide a list of unique approaches and capabilities of the firm.

As part of our philosophy, and approach to providing the most valuable CM/GC services, we begin by learning as much as possible about your project. This allows us to resolve design/construction challenges before they become issues via unique and creative solutions. We call this standard of service "Operational Excellence".

OPERATIONAL
excellence
THE CORE STANDARD

OUR BUSINESS IS THE BUSINESS OF BUILDING - AND THE TRACKING OF RESULTS IN OUR BUSINESS CAN BE ASSESSED UNDER SIX MAIN FACTORS AND THEIR RESPECTIVE GOALS.

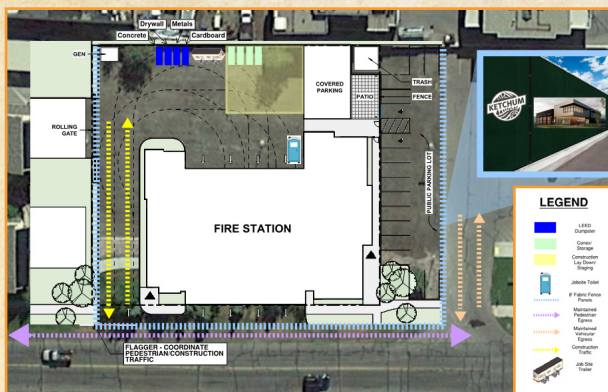


Safety

Safety is KEY! Given that this fire station is surrounded by the YMCA, Northwood Place, Presbyterian Church of the Big Wood, Guy Cole's Skate Park, bus stops, homes and businesses to the east, etc., we felt it necessary to have both the PreConstruction and Operations Teams make multiple site visits to the existing fire station site, as well as the surrounding community. Our intention is to understand how we can mitigate any disturbances to the community, ultimately creating the safest possible construction environment.

In addition to studying overall traffic patterns of the area, we visited with all the adjacent neighbors (as stated above) as well as some residents to the East (Doug Ellsley, Steve Cook, etc.), to learn of their concerns, the pick up and drop off schedules, major calendar events and more. We believe proper and constant communication is just one important factor of a safe site.

Furthermore, our team visited the future fire station to meet with the Assistant Fire Chief and Fire Marshal, Tom Ancona, and other fire fighters, to learn what is important to them regarding their facility and community. With all of the data collected, we were able to assemble a preliminary site logistics plan for your project, **as seen below**.

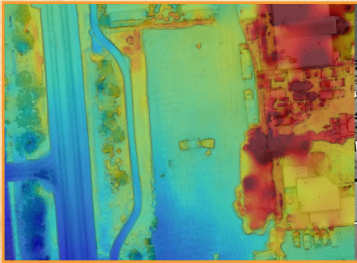


Alongside the use of our Predictive Solutions safety technology (detailed further in the Sample Project section), developing an effective site logistics plan is critical to ensuring the safety of Ketchum locals and tourists. This logistics plan will be updated as necessary throughout the project. It will ultimately help our team communicate with Chief McLaughlin, Mr. Gager, Mayor Bradshaw, Mr. Cole, Mr. Potts and the rest of the team, as well as our subcontractors and the neighborhood, about how we can mitigate disturbances

to the surrounding area. Additionally, we will want to ensure there is an eight-foot fence around the site, to serve as a barrier against unauthorized, unsafe entry, and as a platform for signage that will help with communication about the project to the community. Signage will communicate messages given by the City of Ketchum, the design given by the architect, and how the voted-upon bond dollars are spent. It will also contain the phone number of our onsite superintendent, Pueo Ross, and/or Mr. Potts, in case there are any questions from the public.

Project Approach

Quality



Ketchum is a Community of Quality. There is a standard of construction that we must meet. One way we go about ensuring high quality is through our Virtual Services. They help us solve (or rather, stay ahead of) potential design issues in preconstruction and construction.

One example of the virtual services we offer is Drone Scanning. Our virtual construction (VC) team has already drone-scanned the new fire station parcel, which has provided us with valuable data of the existing topography conditions, enabling us to gain accurate measurements and existing conditions. This data also gives us means to model your project, build four-dimensional (4-D) schedules, identify whether the site is an import or export site, and more. We have already begun reaching out to some of our earthwork partners, providing them with this information while also gathering advice and pricing information on your project.

We are doing everything we can to hit the ground running as soon as possible! This data will ultimately serve as valuable estimating and constructability review tools for the PreConstruction Team, as well as quality control tools for the Operations Team in the field, mitigating risk and increasing efficiency.

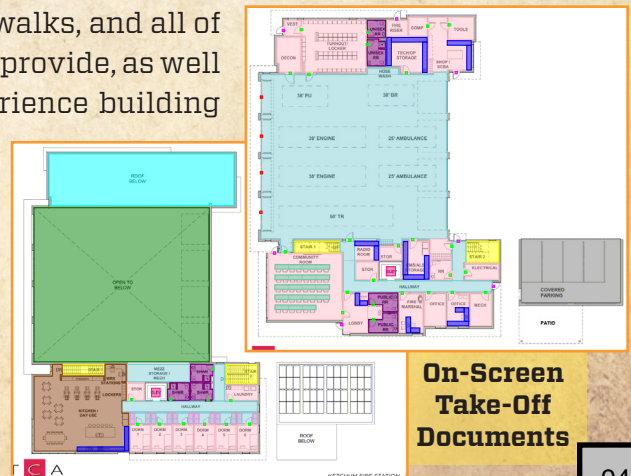
Schedule

“From here on out, it’ll be pedal to the medal!” -Mayor Neil Bradshaw

Humbly said, CORE|HW has never missed a completion date. We understand the importance of developing accurate baseline schedules through constant communication and buy-in from our subcontractors. Additionally, we believe in finding creative ways to capitalize on time in the preconstruction phase. With the threat of material escalation, we look to secure subcontractor contracts as early as possible. We are extremely well-versed with the Public Sector CM/GC procurement statutes. Advertising for subcontractor procurement in two separate packages (early Civil and Site package, and Building Package) as well as potentially pre-purchasing various HVAC or electrical equipment could prove advantageous.

Cost

Proper cost control via accurate documentation will be critical to the success of this project. Utilizing all the information provided by the team in their site walks, and all of the data that the virtual construction team was able to provide, as well as our historical data/knowledge gained in our experience building Fire Station projects for public entities, we were able to do an on-screen take-off of Cole’s preliminary drawings for your project, allowing us to quantify the project, and ultimately allowing us to have derived a complete first estimate for your project. Again, we understand that time is money and we want to ensure that, assuming we are selected as your partner, we are able to hit the ground running with an extremely productive OAC meeting.



Project Approach

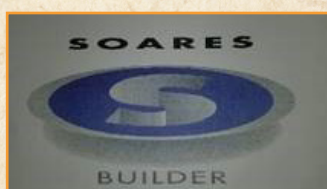


Subcontractors

Subcontractors are the lifeblood of our company. CORE|HW values our great relationships with local subcontractors and suppliers, helping keep dollars in Idaho and supporting the local economy. These relationships are fundamentally built on Trust, Fairness, Respect and Accountability.

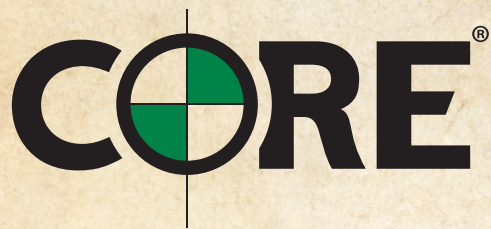
Given the construction of two other hotels and other City of Ketchum projects (both commercial and residential), the physical location challenges of Ketchum (one way in/one way out), and the general subcontractor workforce availability in today's market, subcontractor outreach will be more important than ever. From our research, the concrete scope of work will be a challenge if not planned accordingly. As mentioned before, we have already begun meeting with local subcontractors (especially suppliers and installers of concrete), developing relationships and informing them of your project, while also educating them on the CM/GC delivery method and collaborating on potential challenges (manpower, constructability, etc.).

Below are some subcontractors we have already begun establishing relationships with.



Clients

The Client Decides! This is our motto, and we are dedicated servants to this project. Being that all our work is in the qualification-based selection delivery methods (CM/GC or Design-Build), we always strive to outperform your expectations with the goal of being hired again. In speaking with Assistant Chief/Fire Marshall Tom Ancona, we learned that this project dates back to his beginning years at the fire department. We know that we only have one shot to get this right! It would be an honor to be a part of the team that builds the Ketchum fire station the community can be proud of.

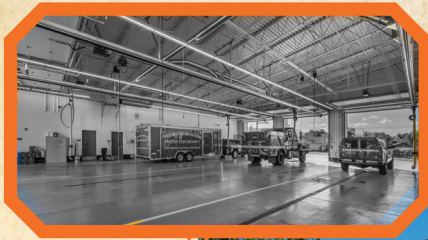


Similar Experience

List the firm's experience for the five most similar projects (in terms of size, nature and complexity) completed within the last 10 years. Emphasis is on similar fire station projects. Clearly identify the project scope, cost and the firm's responsibilities on the project. Identify if LEED certification was achieved for the sample projects.

Please refer below and to the following page for a list of CORE|HW's five most similar projects within the last 10 years.

Truckee Meadows Fire Protection District Fire Station No. 14



The Truckee Meadows Fire Station No. 14 project involved the new construction of a 10,662 square foot fire station in Reno, NV. The facility included three double-deep apparatus bays, two offices, a kitchen and dining area, a dayroom, a fitness room, and sleeping quarters for five staff members.

Cost: \$5,403,311 | **Role:** CM/GC

City of Las Vegas Fire Station 3



The Fire Station 3 project involved the replacement of a fire station in Las Vegas, NV. The original facility was demolished and replaced with a new 14,803 square foot station. New construction consisted of four fire truck bays with pull-through access, 16 dorm rooms, a full kitchen, a multimedia room, and a weight room.

Cost: \$9,295,333 | **Role:** CM/GC

Similar Experience

City of Henderson Fire Station No. 91



The Fire Station No. 91 project involved the new construction of a 10,998 square foot fire station in Henderson, NV. The facility houses three apparatus bays, a training room, and a fire engine. The project also features seven dorm rooms, administrative offices, a kitchen, and rehab day room.

Cost: \$6,072,132 | **Role:** CM/GC

Pinetop Fire District Fire Station No. 110



The Pinetop Fire Station No. 110 project involved the new construction of a 12,700 square foot fire station. The facility features administrative offices, fitness rooms, dorms, dining areas, a kitchen, vehicle bays and a hose drying tower for forest fire observation. This project was awarded a Career Category Gold Medal in Fire Station Design for design and construction excellence.

Cost: \$4,299,992 | **Role:** Design-Build

Sun City Fire and Medical Department Fire Station No. 133



The Fire Station No. 133 project involved the new construction of a 16,248 square foot fire station. The facility houses a three-bay drive-through station, a back-end bay for the Battalion Chief, 12 dorm rooms, a community room, a fitness room, two dayrooms, and a training room. This fire station serves both fire and medical staff.

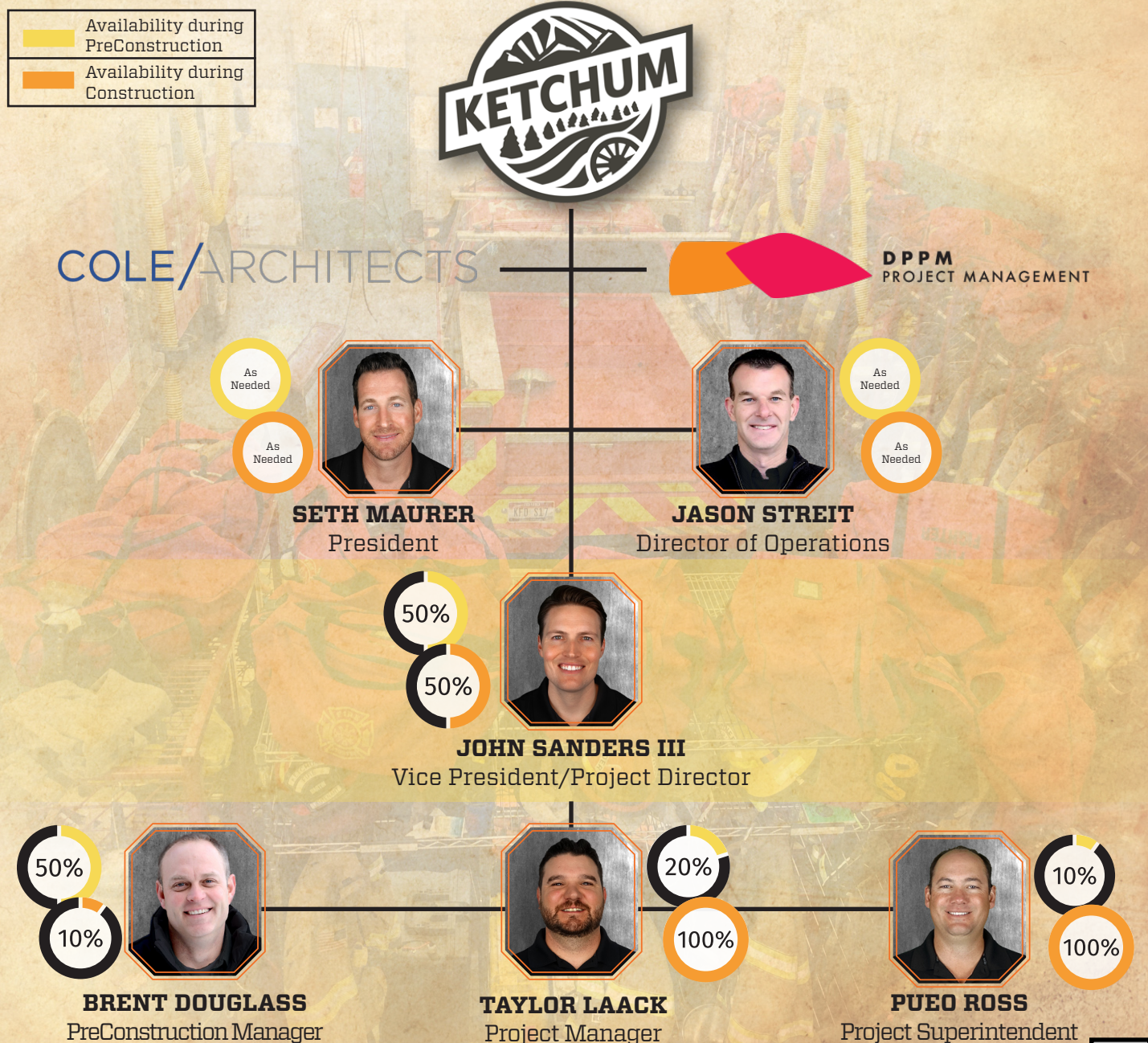
Cost: \$4,960,387 | **Role:** CM/GC

Staff Experience

Identify the specific individual principal in charge and supporting staff who would be involved in the project including their respective roles and responsibilities as well as the percentage of time devoted to the project (by phase). For each individual list their related experience for the three most similar projects including the project scope, cost, which firm the individual worked for at the time, and the individual's responsibilities on the project. Experience on similar fire station projects should be emphasized. Describe staff availability and how the workload will be managed. Note individual experience on LEED certified projects.

Please refer below to a chart of key personnel and their availabilities for this project. Resumes for each team member can be found on the following pages seven and eight.

Your Team



Staff Experience



SETH MAURER
President
LEED AP BD+C

As President, Seth will make sure the City of Ketchum receives the highest level of care for the new Ketchum Fire Station project. Seth's passion is Client Trust. He has worked at CORE for more than 27 years, starting as a field laborer in high school. Seth cares deeply for the company's name, reputation and future growth. He understands the expectations of the Construction Manager/General Contractor delivery method and strives to make certain that all stakeholders receive the highest level of service.



Fire Station 3 | \$9,295,333

Built for the City of Las Vegas, this project included the replacement of an old fire station with a new 14,803 SF fire station.

President | CORE



Fire Station No. 14 | \$5,403,311

Built for the Truckee Meadows Fire Protection District, this project included the new construction of a 10,662 SF fire station.

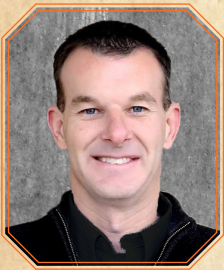
President | CORE



Fire Station No. 91 | \$6,072,132

Built for the city of Henderson, this project included the new construction of a 10,998 SF fire station.

President | CORE



JASON STREIT
Director of Operations
LEED AP BD+C

As an owner and COO, Jason has been with Headwaters for over 15 years. Jason manages all operations personnel and ensures that client goals are met for safety, quality, schedule and cost during the construction phase. Jason has a vested interest in this project. Jason grew up in Sun Valley near Ketchum, where his parents still reside. He maintains many great relationships with subcontractors in the area and understands what it takes to build successfully in Ketchum.



Teton Courthouse | \$5,364,453

Built for Teton County Idaho, this project included the new construction of a 21,744 SF courthouse in Driggs, ID.

Project Manager | Headwaters



Children's Learning Center | \$4,936,786

Built for Teton County Wyoming, this project included the new construction of a 12,000 SF early childhood learning center.

Director of Operations | Headwaters



St. Anthony Work Camp | \$7,667,533

Currently in preconstruction for Idaho DPW and DOC, this public safety addition will include the new construction of a 17,587 SF work camp.

Director of Operations | CORE|HW



JOHN SANDERS III
Vice President/
Project Director

As Vice President and the Director for this Ketchum Fire Station project, **John will be the individual principal in charge and act as a continuous point of contact for the City of Ketchum.** As an Idaho resident, John is committed to serving Ketchum's community and the project with the highest level of commitment, integrity, and professionalism. John has successfully managed several projects for CORE, and has a firm understanding of the expectations and protocol required.



Fire Station 108 | \$4,881,730

Built for the City of Las Vegas, this project included the new construction of a 7,640 SF fire station.

Project Director | CORE



Fire Station No. 133 | \$4,960,387

Built for the Sun City Fire and Medical Department, this project included the new construction of a 16,248 SF fire station.

Project Director | CORE



Fire Station No. 110 | \$4,299,992

Built for the Pinetop Fire District, this project included the new construction of a 12,700 SF fire station.

Project Director | CORE

Staff Experience



Teton Courthouse | \$5,364,453

Built for Teton County Idaho, this project included the new construction of a 21,744 SF courthouse in Driggs, ID.

Estimator | Headwaters

Thunder Ridge High School |

\$56,985,496

Built for Bonneville School District, this Idaho CM/GC project included the new construction of a 264,000 SF public facility.

Director of PreCon | Headwaters

St. Anthony Work Camp | \$7,667,533

Currently in preconstruction for Idaho DPW and IDOC, this public safety addition will include the new construction of a 17,587 SF work camp.

Director of PreCon | CORE|HW



BRENT DOUGLASS

PreConstruction

Manager

LEED AP BD+C

Brent is a partner in Headwaters Construction and acts as Director of Preconstruction services.

While he has been in the estimating and preconstruction side of construction most of his career, Brent has spent time as a project manager and superintendent. Because of Brent's work with some of the school districts throughout Idaho as well as with Idaho's Department of Public Works, Brent has provided preconstruction services on over \$150M of Idaho public CM/GC work.



Fire Station No. 14 | \$5,403,311

Built for the Truckee Meadows Fire Protection District, this project included the new construction of a 10,662 SF fire station.

Project Manager | CORE

Villanova Maintenance Facility |

\$11,921,277

Built for the Regional Transportation Commission, this project included the demolition, restoration, renovation, and new construction of a 57,613 SF transportation building.

Project Manager | CORE

Desert Skies Middle School |

\$60,562,836

Built for Washoe County School District, this project included the new construction of a 189,000 SF middle school.

Project Manager | CORE



TAYLOR LAACK

Project Manager

As Project Manager, Taylor will be responsible for the coordination and supervision of the construction process, from the conceptual development stage through final completion. He will ensure the proper administration of construction contracts, obtaining all necessary permits and licenses, reviewing daily reports, and ensuring complete quality and safety on the Ketchum Fire Station project. He will also track and control the construction schedule, costs, and will guarantee that the fire station is completed on time, within budget, and to the highest standard.



Fire Station 108 | \$4,881,730

Built for the City of Las Vegas, this project included the new construction of a 7,640 SF fire station.

Project Superintendent | CORE



Fire Station No. 91 | \$6,072,132

Built for the city of Henderson, this project included the new construction of a 10,998 SF fire station.

Project Superintendent | CORE



Fire Station 3 | \$9,295,333

Built for the City of Las Vegas, this project included the replacement of an old fire station with a new 14,803 SF fire station.

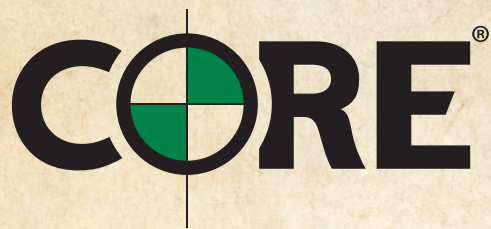
Project Superintendent | CORE

PUEO ROSS

Project Superintendent

As Project Superintendent, Pueo will be responsible for coordinating all site construction activities and supervising field personnel. **Having built seven fire stations, Pueo brings with him an immense amount of fire station experience.** Pueo will also keep daily records for the City of Ketchum, serving as a liaison with inspectors on the requirements of the site in terms of licenses and safety, and following the fire station construction process to ensure that it is completed on time and within budget.





Staff Availability

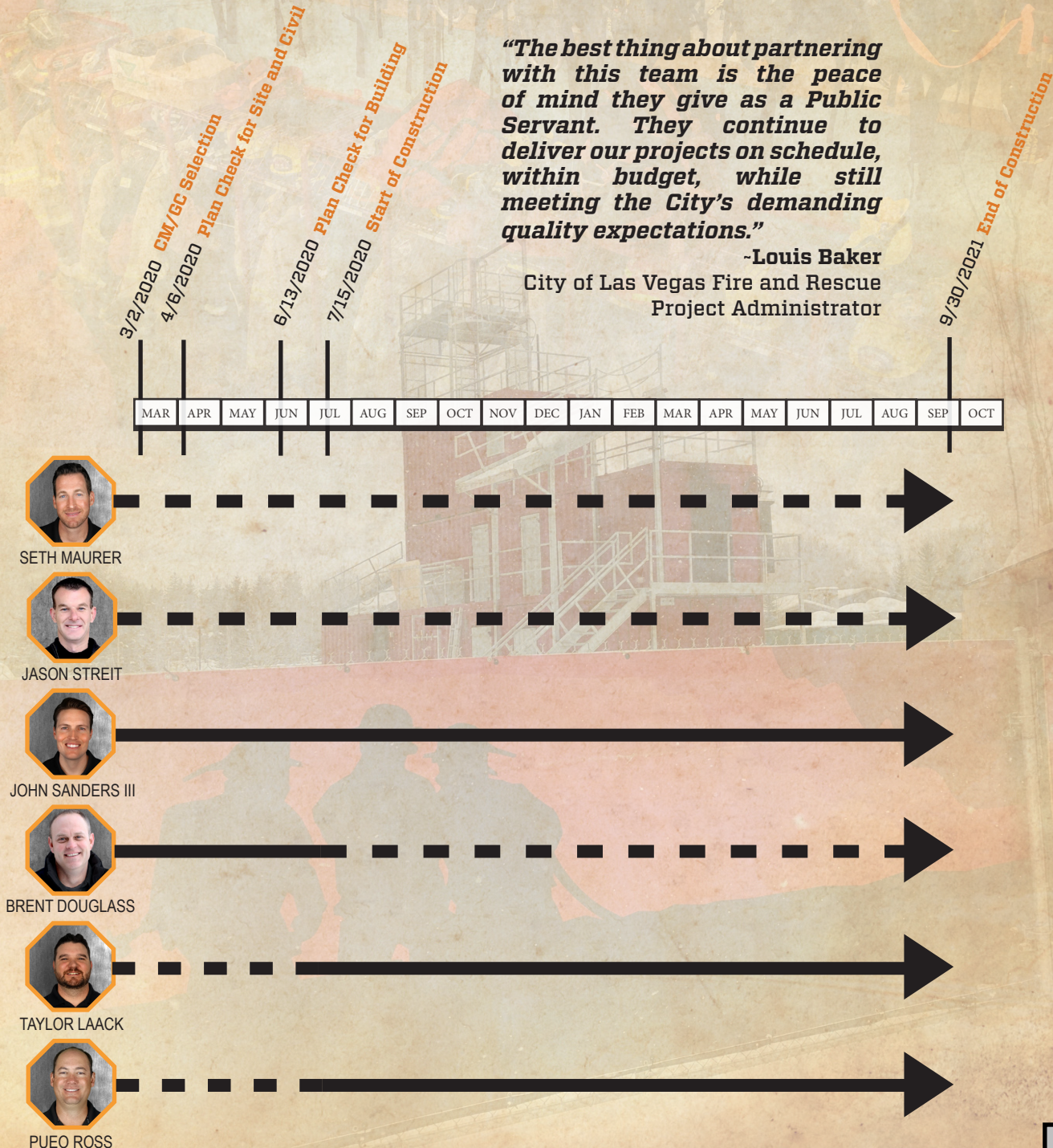
The schedule for this project is very important, outline how your firm will insure the proposed staff will be available at the proper times to complete this project within the dates at the end of the document.

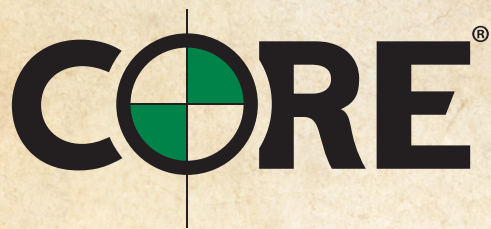
Timing is EVERYTHING! And the timing for this project is just right for our team. Our most qualified fire station builders are just coming off their current project and are ready to get started. In the below graphic, the solid line represents full-time involvement and the dashed line represents availability as needed for the success of this fire station. Our company believes in involving our operations personnel early on during preconstruction, enabling us to glean valuable constructability advice, and keeping our preconstruction personnel engaged in the project throughout the entire duration. This will ensure that everything communicated in preconstruction gets successfully translated to the field during construction.

"The best thing about partnering with this team is the peace of mind they give as a Public Servant. They continue to deliver our projects on schedule, within budget, while still meeting the City's demanding quality expectations."

-Louis Baker

City of Las Vegas Fire and Rescue
Project Administrator





Sample Project

For the most similar project provide a summary narrative of the result of the project and copies of the documents listed below. Confidential client information can be redacted.

- Building elevations and/or exterior photographs
- Floor plans
- Site plans
- LEED scorecard (if applicable)

Please refer to the following pages for documents listed above, as well as information on our approach to the sample project.



City of Las Vegas Fire Station 3



The Fire Station 3 project included the replacement of a fire station in Las Vegas, NV. The original facility was demolished and replaced with a new 14,803 square foot station. New construction consisted of four fire truck bays with pull-through access, 16 dorm rooms, a full kitchen, a multimedia room, and a weight room. The building was constructed using Concrete Masonry Unit (CMU) and Insulated Concrete Form (ICF). This facility was delivered both on time and on budget, and at the end of construction, received a LEED Silver rating.

**\$9,295,333 | Demolition and Construction lasted from
CM/GC | October 2018 to November 2019.**



105

Sample Project

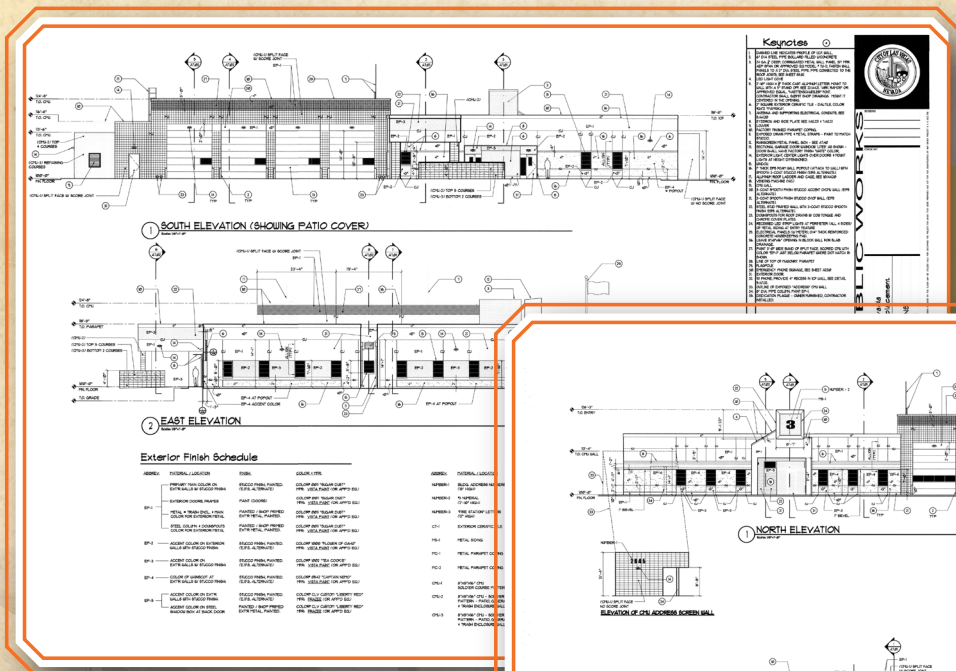
3D Renderings and Exterior Photographs



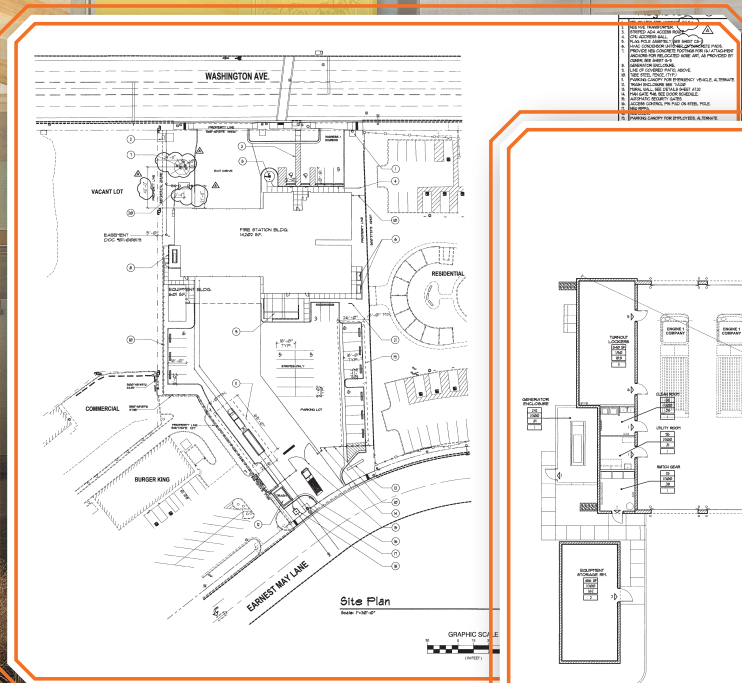
Sample Project

Sample Documents

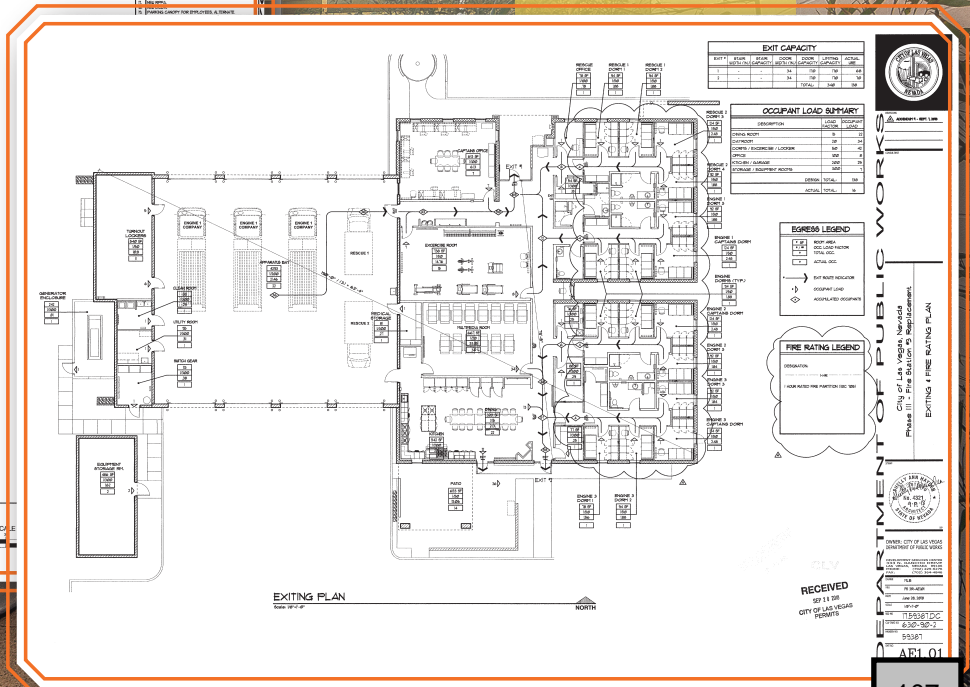
Building Elevations



Site Plans



Floor Plans



Sample Project

LEED Scorecard, pg. 1



LEED v4 for BD+C: New Construction and Major Renovation

Project Checklist

Project Name Fire Station #3 Replacement

Date: 11/29/18

Y	?	N			
			Credit 1	Integrative Process	1
9			Location and Transportation		
			Possible Points: 16		
		np	Credit 1	LEED for Neighborhood Development Location	16
1			Credit 2	Sensitive Land Protection	1
		np	Credit 3	High Priority Site	2
2			Credit 4	Surrounding Density and Diverse Uses	5
3			Credit 5	Access to Quality Transit	5
1			Credit 6	Bicycle Facilities	1
1			Credit 7	Reduced Parking Footprint	1
1			Credit 8	Green Vehicles	1
3			Sustainable Sites		
			Possible Points: 10		
Y			Prereq 1	Construction Activity Pollution Prevention	Required
		np	Credit 1	Site Assessment	1
		np	Credit 2	Site Development--Protect or Restore Habitat	2
		np	Credit 3	Open Space	1
		np	Credit 4	Rainwater Management	3
2			Credit 5	Heat Island Reduction	2
1			Credit 6	Light Pollution Reduction	1
7			Water Efficiency		
			Possible Points: 11		
Y			Prereq 1	Outdoor Water Use Reduction	Required
Y			Prereq 2	Indoor Water Use Reduction	Required
Y			Prereq 3	Building-Level Water Metering	Required
		np	Credit 1	Outdoor Water Use Reduction	2
6			Credit 2	Indoor Water Use Reduction	6
		np	Credit 3	Cooling Tower Water Use	2
1			Credit 4	Water Metering	1
23			Energy and Atmosphere		
			Possible Points: 33		
Y			Prereq 1	Fundamental Commissioning and Verification	Required
Y			Prereq 2	Minimum Energy Performance	Required
Y			Prereq 3	Building-Level Energy Metering	Required
Y			Prereq 4	Fundamental Refrigerant Management	Required
3			Credit 1	Enhanced Commissioning	6
17			Credit 2	Optimize Energy Performance	18
1			Credit 3	Advanced Energy Metering	1
		np	Credit 4	Demand Response	2
1			Credit 5	Renewable Energy Production	3
		np	Credit 6	Enhanced Refrigerant Management	1
2			Credit 7	Green Power and Carbon Offsets	2
4			Materials and Resources		
			Possible Points: 13		
Y			Prereq 1	Storage and Collection of Recyclables	Required
Y			Prereq 2	Construction and Demolition Waste Management Planning	Required

Sample Project

LEED Scorecard, pg. 2

3?	opt4	Credit 1	Building Life-Cycle Impact Reduction	5
1	opt2	Credit 2	Building Product Disclosure and Optimization - Environmental Product Declarations	2
1		Credit 3	Building Product Disclosure and Optimization - Sourcing of Raw Materials	2
1		Credit 4	Building Product Disclosure and Optimization - Material Ingredients	2
2		Credit 5	Construction and Demolition Waste Management	2
Indoor Environmental Quality				Possible Points: 16
9		Prereq 1	Minimum Indoor Air Quality Performance	Required
Y		Prereq 2	Environmental Tobacco Smoke Control	Required
1		Credit 1	Enhanced Indoor Air Quality Strategies	2
1	2?	Credit 2	Low-Emitting Materials	3
1		Credit 3	Construction Indoor Air Quality Management Plan	1
1		Credit 4	Indoor Air Quality Assessment	2
	?	Credit 5	Thermal Comfort	1
2		Credit 6	Interior Lighting	2
2		Credit 7	Daylight	3
	np	Credit 8	Quality Views	1
1		Credit 9	Acoustic Performance	1
Innovation				Possible Points: 6
1		Credit 1	Innovation	5
1		Credit 2	LEED Accredited Professional	1
Regional Priority				Possible Points: 4
3		Credit 1	Regional Priority: Specific Credit	1
1		Credit 2	Regional Priority: Specific Credit	1
1		Credit 3	Regional Priority: Specific Credit	1
		Credit 4	Regional Priority: Specific Credit	1
59		Total		Possible Points: 110

Certified 40 to 49 points Silver 50 to 59 points Gold 60 to 79 points Platinum 80 to 110

OUR APPROACH

OPERATIONAL
excellence™
THE CORE STANDARD

OUR BUSINESS IS THE BUSINESS OF BUILDING - AND THE TRACKING OF RESULTS IN OUR BUSINESS CAN BE ASSESSED UNDER SIX MAIN FACTORS AND THEIR RESPECTIVE GOALS.



1. Safety

Zero Incidents, Zero Accidents.



2. Quality

Built to plans and specs to a quality that exceeds client's expectations. NO re-work.



3. Schedule

Built on or ahead of schedule.



4. Cost

Project completed within budget. No change orders.



5. Subcontractors

Built by qualified subs who care about Operational Excellence as much as we do.



6. Clients

The Client would hire us back again.

Sample Project



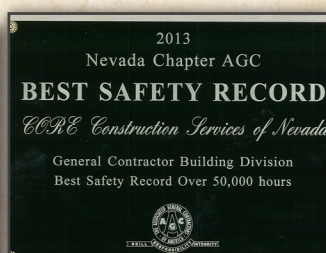
Safety

Predictive Solutions

To ensure safety during the construction of Fire Station 3, we deployed the use of Predictive Solutions (P.S.) SafetyNet, as we do on all our projects. P.S. is an innovative safety management system that enables our project teams to collect accurate information daily, and analyze it to measure the effectiveness of site-specific safety programs. The program aids in identifying “leading safety indicators” so the team can proactively address and implement corrective action steps before a preventable incident occurs. This software is conveniently managed and monitored through our mobile devices, as seen on the right. Through our continuously increasing safety observation data, our preconstruction teams use the information to identify contractors who best align with our safety values to ensure the safest teams possible on our projects.



Year	EMR	#of Recordable Incidents	Recordable Incident Rate	Lost Time Incident Rate
2015	.65	0	0	0.00
2016	.60	0	0	0.00
2017	.67	0	0	0.00
2018	.71	0	0	0.00
2019	.68	0	0	0.00



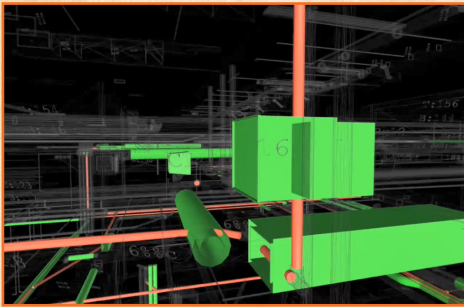
**Awarded Safest Contractor by the Associated General Contractors of America
eight years in a row.**





Virtual Construction Services

Every project has unique risks, and the best way to minimize those risks is through Virtual Construction. Using visualization techniques, virtual mockups, clash detections, laser scanning and more, we were able to eliminate guesswork on Fire Station 3 and keep the project on schedule and under budget. We were also able to ensure construction work met the City of Las Vegas' goals. Some of the ways we utilized Virtual Construction included:



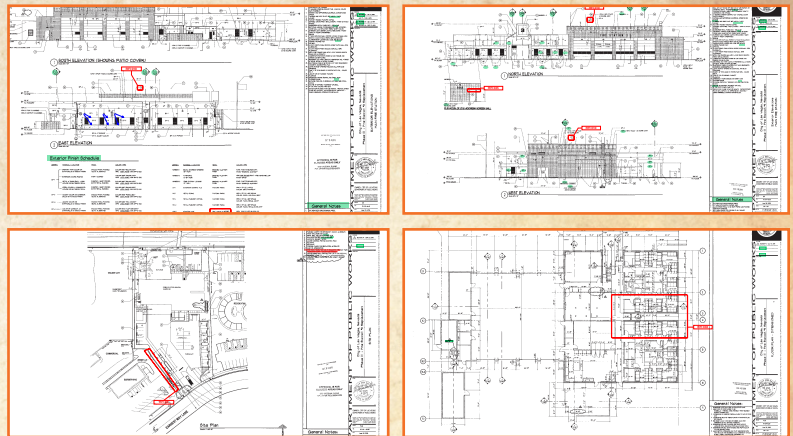
Clash Detection: All MEP elements, equipment, and clearances necessary for accessing and maintenance servicing were modeled in detail using Revit. These zones were labeled as clearances, and clash detections were performed to ensure the areas were kept clear. Clash detections were also used to communicate with our subcontractor to ensure proper fabrication, installation and rough-in coordination.



Laser Scanning: Laser scanning is the fastest and most accurate measuring tool in the construction industry. It has multiple applications for verifying existing conditions, and is a valuable tool for the verification of existing site and building conditions. On the Fire Station 3 project, this data allowed us to understand the building's conditions and rough order of magnitude regarding work inside the building.

Constructability Analysis

The Fire Station 3 team began a constructability analyses of details of the project during the Design Development phase. Details where dissimilar materials abut and sequencing of trades had to be implemented were outlined for review and acceptance.



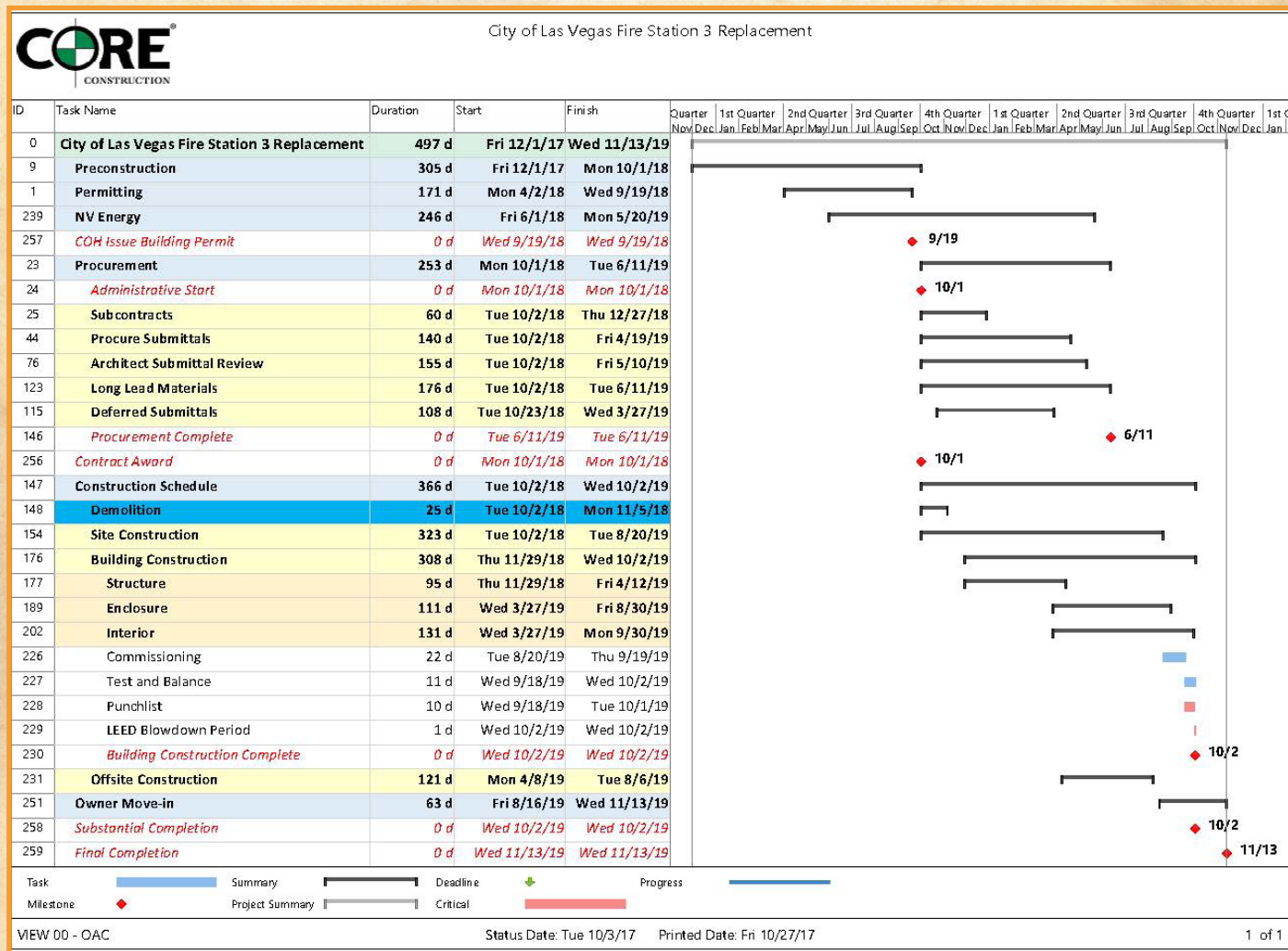
Solar Sustainability

Although not originally part of the contract, we helped Fire Station 3 install all infrastructure for solar panels on the roof. We also had our steel contractors build parking canopies capable of supporting future solar panels.

Sample Project



Schedule



Subcontractor Scheduling

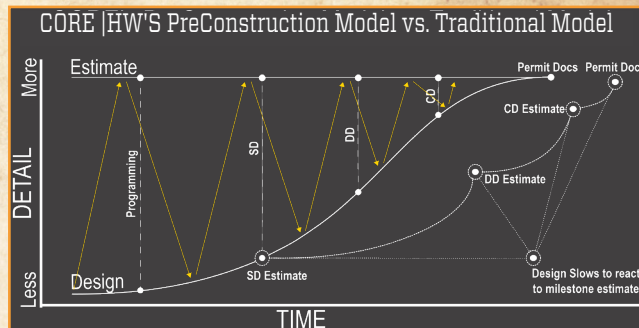
While CORE|HW project managers and superintendents are qualified and experienced builders, subcontractors understand their specific real-time market conditions better than anyone. For the Fire Station 3 project, our team built the initial schedule with the City of Las Vegas, then looked for subcontractor feedback and support regarding material lead times, durations, manpower availability, etc. Our team worked hand-in-hand with subcontractors to make sure our schedules were established to deliver the project on time.

Seamless Transition

Our Operation's Team members responsible for building Fire Station 3 were also engaged early throughout the preconstruction phase so they could be well informed at the start of construction. They participated in preconstruction design review meetings and assisted with the development of the project schedule, site logistics plans, and other applicable management tools. This process ensured that agreements and decisions made early in the process were properly transferred to the individuals responsible for making it happen.

Living Estimates

In the early stages of design, it is critically important to maintain a high level of detail in our estimate, even when the design is in flux. We engaged our Fire Station 3 team and leveraged all available tools to account for specific building systems long before they were detailed in the plans. The specific process used to manage project costs throughout the design phase is called the Living Estimate. Our priority was to Our priority was to work together in continuous collaboration with the design team as the development progressed, to provide real-time cost data throughout the entire process. As the level of detail increased, the amount of risk and assumptions put into the estimate decreased. The Living Estimate helped us avoid cost surprises and unnecessary adjustments in later design phases.



Option Studies

We are constantly seeking ways to help guide design decisions by providing various options on different building structures, envelopes and systems that best fit each unique project. During the Fire Station 3 project, we did the hard work of analyzing several options to fully explore materials, products, and systems based on upfront costs, long term costs, maintenance, durability, aesthetics and constructability. These choices ultimately dictated the quality of the project and many important decisions, which were worked out before construction began. We communicated these choices in professional deliverables called Option Studies. For this project, we conducted several Option Studies for the HVAC systems and apparatus bay doors.

OPTION #1: OVERHEAD DOORS "RYTEC" SPIRAL PV

Pros:

1. High visibility and clearance
2. Up to 8 ft. per second opening speeds
3. Availability for tinted/clear slats

Cons:

1. Lack of option for colored/painted doors

OPTION #2: OVERHEAD DOORS TEMPERED GLASS

Pros:

1. High visibility and clearance
2. Availability for tinted/clear slats
3. Single architectural design
4. Cost effective

Cons:

1. Slower speeds

OPTION #3: BI-FOLD DOORS "DOOR ENGINEERING" FOUR-FOLD

Pros:

1. High life cycle
2. Low maintenance
3. Versatile design for varied openings

Cons:

1. Clearance for openings: Depending on door size and placement
2. Higher costs due to material and structural components

Overhead vs. Bi-Fold Doors Option Study

Option	Cost Per Door (Excluded)	Electrical (Excluded)	Quantity	Estimated Lead Time (Delivery)	Estimated Total Cost (Excluded)
Option #1: Overhead Doors "Spiral PV"	\$25,000	Yes	2.1 sec	6 - 8 Weeks	\$100,400
Option #2: Overhead Doors Tempered Glass	\$11,300	No	14.0 sec	4 - 5 Weeks	\$46,240
Option #3: Bi-Fold Doors "Four-Fold"	\$44,275	No	2.7 sec	12 - 14 Weeks	\$177,100

Sample Project



Subcontractors

Subcontractor Selection Process

For every project, we team up with qualified public sector subcontractors to assist with multiple aspects of the project. We recognize that subcontractors are the experts in their respective fields, and always want to take advantage of their knowledge as best we can. Secondly, we realize that there is value in gathering multiple points of data before we report to our client and design team. Having multiple points of view is critical in providing substantiation to the data presented, and developing trust.



Subcontractor Outreach

CORE|HW understands the statutory requirements for procuring subcontractor bids and developing a Guaranteed Maximum Price (GMP) better than anyone. For Fire Station 3, we believed it was in the best interests of both the City of Las Vegas and the fire station department to bring as many subcontractors to the table as possible on bid day. This may especially apply to a city such as Ketchum, where the local base of subcontractors may be limited. We aimed to maximize the opportunity for local subcontractors to participate on the project, and we also performed extensive outreach to subcontractors from surrounding markets. We held multiple subfairs, which improved the level of interest in the project and created a greater base of qualified subcontractors eligible to bid on the project.



The Client Decides

We know that clients drive our economic engine, and without them, our engine dies. On Fire Station 3 and every other project, we worked hard to provide the highest level of client services possible and to be the best in the world at it. Most importantly, CORE|HW is deeply passionate about trust, especially earning the trust of our clients.

Collaboration

For Fire Station 3, we took a collaborative approach to project scheduling, and began by gathering input from the owner and peripheral stakeholders for the various potential impacts to the community and surrounding properties. This included events that required planning around them, phasing work like logistical impacts to pedestrian and vehicle traffic, planning requirements for utility shutdowns, logistical constraints for project deliveries and working hours, etc. These impacts were built into the project schedule in detail so they could be used to communicate when, where and why certain activities would be taking place. Occasionally, it was necessary for scheduled activities that impacted the operation of surrounding facilities to be shifted, or worked during off hours, to avoid and minimize disruption to the community. When it came to communicating these impacts to various stakeholders, we communicated clearly and often through direct meetings, community newsletters, and other creative methods. Our team is committed to being a respectful and cooperative member of any community.

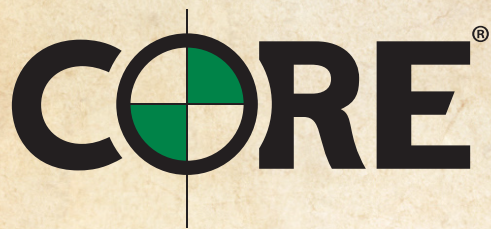
Communication

Communication is the most understated obstacle in a project, no matter what phase is taking place. All parties, including us, the City of Las Vegas, the design team and subcontractors had the same level of communication, ensuring information was being disseminated equally. We scheduled weekly meetings that involved representatives of each stakeholder, either in person, over phone conferences, or through video conferences. At the same time, our project team updated a master schedule on a regular basis to ensure the city had an accurate snapshot of the then-current and projected status. Responsible management of this schedule with critical milestone dates was essential.



CORE President, Seth Maurer (top left, bottom right), with City of Las Vegas Fire Department.





References

Provide a minimum of five references for at least three different projects listed in the “Previous Similar Experience” sections. For each reference provide:

- Name, company/agency, current title and title during project interface
- Phone and e-mail contact information
- Clearly identify which project(s) identified in the “Similar Experience” sections the Reference was involved with; identify Reference’s role(s) and duties in the project(s).



Louis Baker, City of Las Vegas | Fire and Rescue Project Administrator

Louis worked as the Construction Project Administrator for the Las Vegas Fire Station 3. He was responsible for assisting with project oversight on behalf of the City of Las Vegas’ Fire and Rescue department, while collaborating with CORE|Headwaters during construction.

T: (702) 806-5692 | **E:** lbaker@lasvegasnevada.gov



Jennifer Johnson, AIA, City of Henderson | Design and Construction Manager

Jennifer worked as the Design and Construction Manager for the City of Henderson Fire Station No. 91. She was responsible for overseeing the design and construction process on behalf of the City of Henderson, as well as collaborating with CORE|Headwaters from beginning to end.

T: (702) 592-9190 | **E:** jennifer.johnson@cityofhenderson.com



Russell Coleman, City of Las Vegas | Construction Management Supervisor

Russell worked as the Construction Management Supervisor for the City of Las Vegas Fire Station 3. He was responsible for overseeing the project on behalf of the City of Las Vegas, and collaborating with CORE|Headwaters on all aspects of construction.

T: (702) 229-5375 | **E:** rcoleman@lasvegasnevada.gov



Charles Moore, Truckee Meadows Fire Protection | Fire Chief

Charles worked as the Fire Chief for the Truckee Meadows Fire Station No. 14. He provided valuable insight and opinions in regards to the department’s needs within the facility.

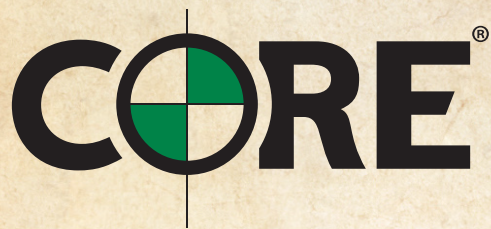
T: (775) 326-6000 | **E:** cmoore@tmfpd.us



Ron Deadman, Sun City Fire District | Fire Chief

Ron worked as the Fire Chief for the Sun City Fire Station No. 133. He provided valuable insight and opinions in regards to the department’s needs within the facility.

T: (623) 974-2321 | **E:** rdeadman@suncityfire.com



AIA® Document A133™ – 2009 SP

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

AGREEMENT made as of the second day of March in the year 2020
(In words, indicate day, month and year.)

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

City of Ketchum An Idaho Municipal Corporation
480 East Avenue
Ketchum, ID 83340

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

CORE | Headwaters LLC An Idaho Limited Liability Company
777 North 4th Street
Boise, ID 83702

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

Fire Station
107 Saddle Road
Ketchum, ID 83340

The Architect:
(Name, legal status and address)

Cole Architects PLLC An Idaho Limited Liability Company
1008 Main Street
Boise, ID 83712

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

DPPM LLC
Dennis Potts
PO Box 6284
Sun Valley, ID 83354

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

John T. Sanders III
CORE | Headwaters LLC

ADDITIONS AND DELETIONS:

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

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

AIA Document A201™–2007 SP, General Conditions of the Contract for Construction, for use on a Sustainable Project, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

ELECTRONIC COPYING of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

777 North 4th Street
Boise, ID 83702
(208) 789-3327
johnsanders@coreconstruction.com

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

Matt Huffield
Cole Architects PLLC
1008 Main Street
Boise, ID 83712
(208) 345-1800
matt@colearchitects.net

The Owner and Construction Manager agree as follows.

DRAFT

TABLE OF ARTICLES

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

EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, the Sustainability Plan, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 2.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 2.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern.

§ 1.2 Relationship of the Parties

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

§ 1.3 General Conditions

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

ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2. The Construction Manager's Construction Phase responsibilities are set forth in Section 2.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. During the Preconstruction Phase and Construction Phase, the Construction Manager shall perform those Sustainable Measures identified as the responsibility of the Construction Manager in the approved Sustainability Plan and any approved changes to the Sustainability Plan. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 2.1 Preconstruction Phase

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

§ 2.1.2 Sustainability Workshop

The Construction Manager shall attend a Sustainability Workshop conducted by the Architect with the Owner and, as requested by the Architect, with the Owner's consultants, the Architect's consultants and the Construction Manager's consultants, during which the participants will: review and discuss potential Sustainability Certifications; establish the Sustainable Objective; discuss potential Sustainable Measures to be targeted; examine strategies for implementation of the Sustainable Measures; and discuss the potential impact of the Sustainable Measures on the Project schedule and the Owner's program and budget.

§ 2.1.3 Sustainability Documentation

The Construction Manager shall prepare and submit to the Architect the Sustainability Documentation required from the Construction Manager by the Sustainability Plan.

§ 2.1.4 Consultation

The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work and the requirements of the Sustainability Plan. The Construction Manager shall advise the Owner and the Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations consistent with the Project requirements, including the Sustainability Plan, to the Owner and Architect on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall identify any potential impact its recommendations may have on achievement of the Sustainable Measures or the Sustainable Objective.

§ 2.1.5 When Project requirements in Section 3.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services, including preparation of the Sustainability Plan. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and identify items that could affect the Project's timely completion or achievement of the Sustainable Objective. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered well in advance of construction; specific milestone dates related to the requirements of the Sustainability Plan; and the occupancy requirements of the Owner.

§ 2.1.6 Phased Construction

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

§ 2.1.7 Preliminary Cost Estimates

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

§ 2.1.7.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, and the Sustainability Plan the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, estimates of the Cost of the Work of increasing detail and refinement and allowing for the further development of the design and the Sustainability Plan until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

§ 2.1.8 Subcontractors and Suppliers

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

§ 2.1.9 The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 2.1.10 Extent of Responsibility

§ 2.1.10.1 The Construction Manager shall exercise reasonable care in preparing schedules and estimates. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings, Specifications, and the Sustainability Plan, are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, or requirements of the Certifying Authority, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 2.1.10.2 The Owner and Construction Manager acknowledge that achieving the Sustainable Objective is dependent on many factors beyond the Construction Manager's control, such as the Owner's use and operation of the Project; the services provided by the Architect or the work or services provided by the Owner's other contractors or consultants; or interpretation of credit requirements by a Certifying Authority. Accordingly, the Construction Manager does not warrant or guarantee that the Project will achieve the Sustainable Objective.

§ 2.1.11 Notices and Compliance with Laws

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

§ 2.2 Guaranteed Maximum Price Proposal and Contract Time

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

§ 2.2.2 To the extent that the Drawings and Specifications, and the Sustainability Plan, are anticipated to require further development by the Architect, the Construction Manager shall provide in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further

development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

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

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 The Sustainability Plan;
- .3 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 2.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications, and the Sustainability Plan;
- .4 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, allowances, contingency, and the Construction Manager's Fee;
- .5 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .6 A date by which the Owner must accept the Guaranteed Maximum Price.

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

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

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

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

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

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

§ 2.3 Construction Phase

§ 2.3.1 General

§ 2.3.1.1 For purposes of Section 8.1.2 of A201–2007 SP, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

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

§ 2.3.2 Administration

§ 2.3.2.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Architect. The Owner shall then determine, with the advice of the Construction Manager and the Architect, which bids will be accepted. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

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

§ 2.3.2.3 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If the Subcontract is awarded on a cost plus a fee basis, the Construction Manager shall provide in the Subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Section 6.11 below.

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

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

§ 2.3.2.6 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and submittal schedule in accordance with Section 3.10 of A201–2007 SP.

§ 2.3.2.7 The Construction Manager shall record the progress of the Project and the progress toward achievement of the Sustainable Objective. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner. The Construction Manager shall also keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 2.3.2.8 The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 2.3.2.7 above.

§ 2.4 Professional Services

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

§ 2.5 Hazardous Materials

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

ARTICLE 3 OWNER'S RESPONSIBILITIES

§ 3.1 Information and Services Required of the Owner

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

§ 3.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Construction Manager may only request such evidence if (1) the Owner fails to make payments to the Construction Manager as the Contract Documents require, (2) a change in the Work materially changes the Contract Sum, or (3) the Construction Manager identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Construction Manager and Architect.

§ 3.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

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

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

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

§ 3.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

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

§ 3.1.5 Based on the Owner's approval of the Sustainability Plan and any approved changes to the Sustainability Plan, the Owner shall perform those Sustainable Measures identified as the responsibility of the Owner in the Sustainability Plan, or as otherwise required by the Contract Documents. The Owner shall require that each of its contractors and consultants performs the contractor's or consultant's services in accordance with the Sustainability Plan.

§ 3.1.6 The Owner shall provide to the Construction Manager any information requested by the Construction Manager that is relevant and necessary for achievement of the Sustainable Objective.

§ 3.1.7 The Owner shall comply with the requirements of the Certifying Authority as they relate to the ownership, operation and maintenance of the Project both during construction and after completion of the Project.

§ 3.1.8 The Owner shall provide the services of a commissioning agent that shall be responsible for commissioning of the Project.

§ 3.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2007 SP, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

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

§ 3.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B103™-2007 SP, Standard Form of Agreement Between Owner and Architect, for use on a Sustainable Project, 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 a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement.

ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 4.1 Compensation

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

§ 4.1.2 For the Construction Manager's Preconstruction Phase services described in Sections 2.1 and 2.2:
(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

\$42,812

§ 4.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within eight (8) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

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

§ 4.2 Payments

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

§ 4.2.2 Payments are due and payable upon approval of the Construction Manager's invoice. Amounts unpaid forty-five (45) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

1 % (one percent)

ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

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

§ 5.1.1 The Construction Manager's Fee:

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

4.25%

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

mutual agreement

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

five percent (5%)

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

§ 5.1.5 Unit prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 5.2 Guaranteed Maximum Price

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

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

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

§ 5.3 Changes in the Work

§ 5.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Architect may make minor changes in the Work as provided in Section 7.4 of AIA Document A201-2007 SP, General Conditions of the Contract for Construction, for use on a Sustainable Project. The Construction Manager shall be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 5.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Section 7.3.3 of AIA Document A201-2007 SP, General Conditions of the Contract for Construction, for use on a Sustainable Project.

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

of this Agreement. Adjustments to subcontracts awarded with the Owner's prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

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

§ 5.3.5 If no specific provision is made in Section 5.1.2 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 5.1.2 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 6 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 6.1 Costs to Be Reimbursed

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

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

§ 6.2 Labor Costs

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

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

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

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

§ 6.2.4 Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 6.2.1 through 6.2.3.

§ 6.2.5 Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, with the Owner's prior approval.

§ 6.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts.

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

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

§ 6.4.2 Costs of materials described in the preceding Section 6.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion

of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

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

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

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

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

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

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

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

§ 6.6 Miscellaneous Costs

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

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

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

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

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

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

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

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

§ 6.6.9 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.

§ 6.7 Other Costs and Emergencies

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

§ 6.7.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, as provided in Section 10.4 of AIA Document A201-2007 SP.

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

§ 6.7.4 The costs described in Sections 6.1 through 6.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201-2007 SP or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 6.8.

§ 6.8 Costs Not To Be Reimbursed

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

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

§ 6.9 Discounts, Rebates and Refunds

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

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

§ 6.10 Related Party Transactions

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

any person or entity which has the right to control the business or affairs of the Construction Manager. The term "related party" includes any member of the immediate family of any person identified above.

§ 6.10.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods or service from the related party, as a Subcontractor, according to the terms of Section 2.3.2.1, 2.3.2.2 and 2.3.2.3. If the Owner fails to authorize the transaction, the Construction Manager shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3.

§ 6.11 Accounting Records

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

ARTICLE 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 7.1 Progress Payments

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

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

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

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

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

§ 7.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

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

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

- .1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201–2007 SP;
- .2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Construction Manager's Fee, less retainage of ten percent (10 %). The Construction Manager's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage of ten percent (10 %) from that portion of the Work that the Construction Manager self-performs;
- .5 Subtract the aggregate of previous payments made by the Owner;
- .6 Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by Section 7.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .7 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201–2007 SP.

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

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

§ 7.1.10 In taking action on the Construction Manager's Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager and shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 7.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 7.2 Final Payment

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

- .1 the Construction Manager has fully performed the Contract except for the Construction Manager's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201–2007 SP, 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.

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:

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

§ 7.2.3 If the Owner's auditors report the Cost of the Work as substantiated by the Construction Manager's final accounting to be less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Section 15.2 of A201–2007 SP. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 7.2.4 If, subsequent to final payment and at the Owner's request, the Construction Manager incurs costs described in Section 6.1.1 and not excluded by Section 6.8 to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager such costs and the Construction Manager's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If the Construction Manager has participated in savings as provided in Section 5.2.1, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Construction Manager.

ARTICLE 8 INSURANCE AND BONDS

For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201–2007 SP.
(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201–2007 SP.)

Type of Insurance or Bond	Limit of Liability or Bond Amount (\$0.00)
General Liability	\$2,000,000
Automobile Liability	\$1,000,000
Contractors Liability	\$2,000,000 (General Aggregate)
	\$1,000,000 (Products – Completed Operations Aggregate)
	\$1,000,000 (Personal Accident Injury)
	\$1,000,000 (Fire Damage)
Workers Compensation	Statutory Limits

ARTICLE 9 DISPUTE RESOLUTION

§ 9.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 9 and Article 15 of A201–2007 SP. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 9.3 of this Agreement shall not apply.

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

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

☐ Arbitration pursuant to Section 15.4 of AIA Document A201–2007 SP

☒ Litigation in a court of competent jurisdiction

☐ Other: (Specify)

§ 9.3 Initial Decision Maker

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

(Paragraphs deleted)

ARTICLE 10 TERMINATION OR SUSPENSION

§ 10.1 Termination Prior to Establishment of the Guaranteed Maximum Price

§ 10.1.1 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Section 14.1.1 of A201–2007 SP.

§ 10.1.2 In the event of termination of this Agreement pursuant to Section 10.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 4.1.

§ 10.1.3 If the Owner terminates the Contract pursuant to Section 10.1.1 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 10.1.2:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager which the Owner elects to retain and which is not otherwise included in the Cost of the Work under Section 10.1.3.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 10, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 10.2 Termination Subsequent to Establishing Guaranteed Maximum Price

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

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

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

§ 10.3 Suspension

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

ARTICLE 11 MISCELLANEOUS PROVISIONS

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

§ 11.2 Ownership and Use of Documents

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

§ 11.3 Governing Law

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

§ 11.4 Assignment

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

§ 11.5 Other provisions:

In the event of a conflict between this document and the A201-2007SP, this document shall take precedence.

ARTICLE 12 SCOPE OF THE AGREEMENT

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

§ 12.2 The following documents comprise the Agreement:

- .1 AIA Document A133™–2009 SP, Standard Form of Agreement Between Owner and Construction Manager as Constructor, for use on a Sustainable Project where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A201™–2007 SP, General Conditions of the Contract for Construction, for use on a Sustainable Project

(Paragraphs deleted)

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

OWNER *(Signature)*

Mayor Neil Bradshaw City of Ketchum
(Printed name and title)

CONSTRUCTION MANAGER *(Signature)*

Seth Maurer, President CORE | Headwaters LLC
(Printed name and title)

DRAFT AIA® Document A201™ – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

«Fire Station»

« »

THE OWNER:

(Name, legal status and address)

« »« »

« »

THE ARCHITECT:

(Name, legal status and address)

« »« »

« »

TABLE OF ARTICLES

- | | |
|----|--|
| 1 | GENERAL PROVISIONS |
| 2 | OWNER |
| 3 | CONTRACTOR |
| 4 | ARCHITECT |
| 5 | SUBCONTRACTORS |
| 6 | CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS |
| 7 | CHANGES IN THE WORK |
| 8 | TIME |
| 9 | PAYMENTS AND COMPLETION |
| 10 | PROTECTION OF PERSONS AND PROPERTY |
| 11 | INSURANCE AND BONDS |
| 12 | UNCOVERING AND CORRECTION OF WORK |
| 13 | MISCELLANEOUS PROVISIONS |
| 14 | TERMINATION OR SUSPENSION OF THE CONTRACT |
| 15 | CLAIMS AND DISPUTES |

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

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

ELECTRONIC COPYING of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

INDEX

(Topics and numbers in bold are Section headings.)

Acceptance of Nonconforming Work

9.6.6, 9.9.3, **12.3**

Acceptance of Work

9.6.6, 9.8.2, 9.9.3, 9.10.1, 9.10.3, 12.3

Access to Work

3.16, 6.2.1, 12.1

Accident Prevention

10

Acts and Omissions

3.2, 3.3.2, 3.12.8, 3.18, 4.2.3, 8.3.1, 9.5.1, 10.2.5,

10.2.8, 13.3.2, 14.1, 15.1.2, 15.2

Addenda

1.1.1

Additional Costs, Claims for

3.7.4, 3.7.5, 10.3.2, 15.1.5

Additional Inspections and Testing

9.4.2, 9.8.3, 12.2.1, **13.4**

Additional Time, Claims for

3.2.4, 3.7.4, 3.7.5, 3.10.2, 8.3.2, **15.1.6**

Administration of the Contract

3.1.3, **4.2**, 9.4, 9.5

Advertisement or Invitation to Bid

1.1.1

Aesthetic Effect

4.2.13

Allowances

3.8

Applications for Payment

4.2.5, 7.3.9, 9.2, **9.3**, 9.4, 9.5.1, 9.5.4, 9.6.3, 9.7, 9.10

Approvals

2.1.1, 2.3.1, 2.5, 3.1.3, 3.10.2, 3.12.8, 3.12.9,

3.12.10.1, 4.2.7, 9.3.2, 13.4.1

Arbitration

8.3.1, 15.3.2, **15.4**

ARCHITECT

4

Architect, Definition of

4.1.1

Architect, Extent of Authority

2.5, 3.12.7, 4.1.2, 4.2, 5.2, 6.3, 7.1.2, 7.3.4, 7.4, 9.2,

9.3.1, 9.4, 9.5, 9.6.3, 9.8, 9.10.1, 9.10.3, 12.1, 12.2.1,

13.4.1, 13.4.2, 14.2.2, 14.2.4, 15.1.4, 15.2.1

Architect, Limitations of Authority and

Responsibility

2.1.1, 3.12.4, 3.12.8, 3.12.10, 4.1.2, 4.2.1, 4.2.2,

4.2.3, 4.2.6, 4.2.7, 4.2.10, 4.2.12, 4.2.13, 5.2.1, 7.4,

9.4.2, 9.5.4, 9.6.4, 15.1.4, 15.2

Architect's Additional Services and Expenses

2.5, 12.2.1, 13.4.2, 13.4.3, 14.2.4

Architect's Administration of the Contract

3.1.3, 3.7.4, 15.2, 9.4.1, 9.5

Architect's Approvals

2.5, 3.1.3, 3.5, 3.10.2, 4.2.7

Architect's Authority to Reject Work

3.5, 4.2.6, 12.1.2, 12.2.1

Architect's Copyright

1.1.7, 1.5

Architect's Decisions

3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 4.2.14, 6.3,

7.3.4, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4.1, 9.5, 9.8.4, 9.9.1,

13.4.2, 15.2

Architect's Inspections

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 13.4

Architect's Instructions

3.2.4, 3.3.1, 4.2.6, 4.2.7, 13.4.2

Architect's Interpretations

4.2.11, 4.2.12

Architect's Project Representative

4.2.10

Architect's Relationship with Contractor

1.1.2, 1.5, 2.3.3, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2,

3.5, 3.7.4, 3.7.5, 3.9.2, 3.9.3, 3.10, 3.11, 3.12, 3.16,

3.18, 4.1.2, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5,

9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3, 12, 13.3.2, 13.4, 15.2

Architect's Relationship with Subcontractors

1.1.2, 4.2.3, 4.2.4, 4.2.6, 9.6.3, 9.6.4, 11.3

Architect's Representations

9.4.2, 9.5.1, 9.10.1

Architect's Site Visits

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.4

Asbestos

10.3.1

Attorneys' Fees

3.18.1, 9.6.8, 9.10.2, 10.3.3

Award of Separate Contracts

6.1.1, 6.1.2

Award of Subcontracts and Other Contracts for Portions of the Work

5.2

Basic Definitions

1.1

Bidding Requirements

1.1.1

Binding Dispute Resolution

8.3.1, 9.7, 11.5, 13.1, 15.1.2, 15.1.3, 15.2.1, 15.2.5,

15.2.6.1, 15.3.1, 15.3.2, 15.3.3, 15.4.1

Bonds, Lien

7.3.4.4, 9.6.8, 9.10.2, 9.10.3

Bonds, Performance, and Payment

7.3.4.4, 9.6.7, 9.10.3, **11.1.2**, 11.1.3, **11.5**

Building Information Models Use and Reliance

1.8

Building Permit

3.7.1

Capitalization

1.3

Certificate of Substantial Completion

9.8.3, 9.8.4, 9.8.5

Certificates for Payment

4.2.1, 4.2.5, 4.2.9, 9.3.3, **9.4**, 9.5, 9.6.1, 9.6.6, 9.7,

9.10.1, 9.10.3, 14.1.1.3, 14.2.4, 15.1.4

Certificates of Inspection, Testing or Approval
13.4.4

Certificates of Insurance
9.10.2

Change Orders
1.1.1, 3.4.2, 3.7.4, 3.8.2.3, 3.11, 3.12.8, 4.2.8, 5.2.3, 7.1.2, 7.1.3, **7.2**, 7.3.2, 7.3.7, 7.3.9, 7.3.10, 8.3.1, 9.3.1.1, 9.10.3, 10.3.2, 11.2, 11.5, 12.1.2

Change Orders, Definition of
7.2.1

CHANGES IN THE WORK
2.2.2, 3.11, 4.2.8, **7**, 7.2.1, 7.3.1, 7.4, 8.3.1, 9.3.1.1, 11.5

Claims, Definition of
15.1.1

Claims, Notice of
1.6.2, 15.1.3

CLAIMS AND DISPUTES
3.2.4, 6.1.1, 6.3, 7.3.9, 9.3.3, 9.10.4, 10.3.3, **15**, 15.4

Claims and Timely Assertion of Claims
15.4.1

Claims for Additional Cost
3.2.4, 3.3.1, 3.7.4, 7.3.9, 9.5.2, 10.2.5, 10.3.2, **15.1.5**

Claims for Additional Time
3.2.4, 3.3.1, 3.7.4, 6.1.1, 8.3.2, 9.5.2, 10.3.2, **15.1.6**

Concealed or Unknown Conditions, Claims for
3.7.4

Claims for Damages
3.2.4, 3.18, 8.3.3, 9.5.1, 9.6.7, 10.2.5, 10.3.3, 11.3, 11.3.2, 14.2.4, 15.1.7

Claims Subject to Arbitration
15.4.1

Cleaning Up
3.15, 6.3

Commencement of the Work, Conditions Relating to
2.2.1, 3.2.2, 3.4.1, 3.7.1, 3.10.1, 3.12.6, 5.2.1, 5.2.3, 6.2.2, 8.1.2, 8.2.2, 8.3.1, 11.1, 11.2, **15.1.5**

Commencement of the Work, Definition of
8.1.2

Communications
3.9.1, **4.2.4**

Completion, Conditions Relating to
3.4.1, 3.11, 3.15, 4.2.2, 4.2.9, 8.2, 9.4.2, 9.8, 9.9.1, 9.10, 12.2, 14.1.2, 15.1.2

COMPLETION, PAYMENTS AND
9

Completion, Substantial
3.10.1, 4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3, 12.2, 15.1.2

Compliance with Laws
2.3.2, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 10.2.2, 13.1, 13.3, 13.4.1, 13.4.2, 13.5, 14.1.1, 14.2.1.3, 15.2.8, 15.4.2, 15.4.3

Concealed or Unknown Conditions
3.7.4, 4.2.8, 8.3.1, 10.3

Conditions of the Contract
1.1.1, 6.1.1, 6.1.4

Consent, Written
3.4.2, 3.14.2, 4.1.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3, 13.2, 15.4.4.2

Consolidation or Joinder
15.4.4

CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
1.1.4, **6**

Construction Change Directive, Definition of
7.3.1

Construction Change Directives
1.1.1, 3.4.2, 3.11, 3.12.8, 4.2.8, 7.1.1, 7.1.2, 7.1.3, **7.3**, 9.3.1.1

Construction Schedules, Contractor's
3.10, 3.11, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2

Contingent Assignment of Subcontracts
5.4, 14.2.2.2

Continuing Contract Performance
15.1.4

Contract, Definition of
1.1.2

CONTRACT, TERMINATION OR SUSPENSION OF THE
5.4.1.1, 5.4.2, 11.5, **14**

Contract Administration
3.1.3, 4, 9.4, 9.5

Contract Award and Execution, Conditions Relating to
3.7.1, 3.10, 5.2, 6.1

Contract Documents, Copies Furnished and Use of
1.5.2, 2.3.6, 5.3

Contract Documents, Definition of
1.1.1

Contract Sum
2.2.2, 2.2.4, 3.7.4, 3.7.5, 3.8, 3.10.2, 5.2.3, 7.3, 7.4, **9.1**, 9.2, 9.4.2, 9.5.1.4, 9.6.7, 9.7, 10.3.2, 11.5, 12.1.2, 12.3, 14.2.4, 14.3.2, 15.1.4.2, **15.1.5**, **15.2.5**

Contract Sum, Definition of
9.1

Contract Time
1.1.4, 2.2.1, 2.2.2, 3.7.4, 3.7.5, 3.10.2, 5.2.3, 6.1.5, 7.2.1.3, 7.3.1, 7.3.5, 7.3.6, 7, 7, 7.3.10, 7.4, 8.1.1, 8.2.1, 8.2.3, 8.3.1, 9.5.1, 9.7, 10.3.2, 12.1.1, 12.1.2, 14.3.2, 15.1.4.2, 15.1.6.1, 15.2.5

Contract Time, Definition of
8.1.1

CONTRACTOR
3

Contractor, Definition of
3.1, **6.1.2**

Contractor's Construction and Submittal Schedules
3.10, 3.12.1, 3.12.2, 4.2.3, 6.1.3, 15.1.6.2

Contractor's Employees
2.2.4, 3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3, 11.3, 14.1, 14.2.1.1

Contractor's Liability Insurance
11.1

Contractor's Relationship with Separate Contractors and Owner's Forces
3.12.5, 3.14.2, 4.2.4, 6, 11.3, 12.2.4

Contractor's Relationship with Subcontractors
1.2.2, 2.2.4, 3.3.2, 3.18.1, 3.18.2, 4.2.4, 5, 9.6.2, 9.6.7, 9.10.2, 11.2, 11.3, 11.4

Contractor's Relationship with the Architect
1.1.2, 1.5, 2.3.3, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2, 3.5.1, 3.7.4, 3.10, 3.11, 3.12, 3.16, 3.18, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3, 12, 13.4, 15.1.3, 15.2.1

Contractor's Representations
3.2.1, 3.2.2, 3.5, 3.12.6, 6.2.2, 8.2.1, 9.3.3, 9.8.2

Contractor's Responsibility for Those Performing the Work
3.3.2, 3.18, 5.3, 6.1.3, 6.2, 9.5.1, 10.2.8

Contractor's Review of Contract Documents
3.2

Contractor's Right to Stop the Work
2.2.2, 9.7

Contractor's Right to Terminate the Contract
14.1

Contractor's Submittals
3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 9.2, 9.3, 9.8.2, 9.8.3, 9.9.1, 9.10.2, 9.10.3

Contractor's Superintendent
3.9, 10.2.6

Contractor's Supervision and Construction Procedures
1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3, 7.3.4, 7.3.6, 8.2, 10, 12, 14, 15.1.4

Coordination and Correlation
1.2, 3.2.1, 3.3.1, 3.10, 3.12.6, 6.1.3, 6.2.1

Copies Furnished of Drawings and Specifications
1.5, 2.3.6, 3.11

Copyrights
1.5, **3.17**

Correction of Work
2.5, 3.7.3, 9.4.2, 9.8.2, 9.8.3, 9.9.1, 12.1.2, **12.2**, 12.3, 15.1.3.1, 15.1.3.2, 15.2.1

Correlation and Intent of the Contract Documents
1.2

Cost, Definition of
7.3.4

Costs
2.5, 3.2.4, 3.7.3, 3.8.2, 3.15.2, 5.4.2, 6.1.1, 6.2.3, 7.3.3.3, 7.3.4, 7.3.8, 7.3.9, 9.10.2, 10.3.2, 10.3.6, 11.2, 12.1.2, 12.2.1, 12.2.4, 13.4, 14

Cutting and Patching
3.14, 6.2.5

Damage to Construction of Owner or Separate Contractors
3.14.2, 6.2.4, 10.2.1.2, 10.2.5, 10.4, 12.2.4

Damage to the Work
3.14.2, 9.9.1, 10.2.1.2, 10.2.5, 10.4, 12.2.4

Damages, Claims for
3.2.4, 3.18, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3, 11.3.2, 11.3, 14.2.4, 15.1.7

Damages for Delay
6.2.3, 8.3.3, 9.5.1.6, 9.7, 10.3.2, 14.3.2

Date of Commencement of the Work, Definition of
8.1.2

Date of Substantial Completion, Definition of
8.1.3

Day, Definition of
8.1.4

Decisions of the Architect
3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 6.3, 7.3.4, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4, 9.5.1, 9.8.4, 9.9.1, 13.4.2, 14.2.2, 14.2.4, 15.1, 15.2

Decisions to Withhold Certification
9.4.1, **9.5**, 9.7, 14.1.1.3

Defective or Nonconforming Work, Acceptance, Rejection and Correction of
2.5, 3.5, 4.2.6, 6.2.3, 9.5.1, 9.5.3, 9.6.6, 9.8.2, 9.9.3, 9.10.4, 12.2.1

Definitions
1.1, 2.1.1, 3.1.1, 3.5, 3.12.1, 3.12.2, 3.12.3, 4.1.1, 5.1, 6.1.2, 7.2.1, 7.3.1, 8.1, 9.1, 9.8.1, 15.1.1

Delays and Extensions of Time
3.2, **3.7.4**, 5.2.3, 7.2.1, 7.3.1, **7.4**, **8.3**, 9.5.1, **9.7**, 10.3.2, **10.4**, 14.3.2, **15.1.6**, 15.2.5

Digital Data Use and Transmission
1.7

Disputes
6.3, 7.3.9, 15.1, 15.2

Documents and Samples at the Site
3.11

Drawings, Definition of
1.1.5

Drawings and Specifications, Use and Ownership of
3.11

Effective Date of Insurance
8.2.2

Emergencies
10.4, 14.1.1.2, **15.1.5**

Employees, Contractor's
3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3.3, 11.3, 14.1, 14.2.1.1

Equipment, Labor, or Materials
1.1.3, 1.1.6, 3.4, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1, 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1, 10.2.4, 14.2.1.1, 14.2.1.2

Execution and Progress of the Work
1.1.3, 1.2.1, 1.2.2, 2.3.4, 2.3.6, 3.1, 3.3.1, 3.4.1, 3.7.1, 3.10.1, 3.12, 3.14, 4.2, 6.2.2, 7.1.3, 7.3.6, 8.2, 9.5.1, 9.9.1, 10.2, 10.3, 12.1, 12.2, 14.2, 14.3.1, 15.1.4

Extensions of Time
3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3, 7.4, 9.5.1, 9.7, 10.3.2, 10.4, 14.3, 15.1.6, **15.2.5**

Failure of Payment
9.5.1.3, **9.7**, 9.10.2, 13.5, 14.1.1.3, 14.2.1.2

Faulty Work
(See Defective or Nonconforming Work)

Final Completion and Final Payment
4.2.1, 4.2.9, 9.8.2, **9.10**, 12.3, 14.2.4, 14.4.3

Financial Arrangements, Owner's

2.2.1, 13.2.2, 14.1.1.4

GENERAL PROVISIONS

1

Governing Law

13.1

Guarantees (See Warranty)

Hazardous Materials and Substances

10.2.4, **10.3**

Identification of Subcontractors and Suppliers

5.2.1

Indemnification

3.17, **3.18**, 9.6.8, 9.10.2, 10.3.3, 11.3

Information and Services Required of the Owner

2.1.2, **2.2**, 2.3, 3.2.2, 3.12.10.1, 6.1.3, 6.1.4, 6.2.5,

9.6.1, 9.9.2, 9.10.3, 10.3.3, 11.2, 13.4.1, 13.4.2,

14.1.1.4, 14.1.4, 15.1.4

Initial Decision

15.2

Initial Decision Maker, Definition of

1.1.8

Initial Decision Maker, Decisions

14.2.4, 15.1.4.2, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5

Initial Decision Maker, Extent of Authority

14.2.4, 15.1.4.2, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5

Injury or Damage to Person or Property

10.2.8, 10.4

Inspections

3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3,

9.9.2, 9.10.1, 12.2.1, 13.4

Instructions to Bidders

1.1.1

Instructions to the Contractor

3.2.4, 3.3.1, 3.8.1, 5.2.1, 7, 8.2.2, 12, 13.4.2

Instruments of Service, Definition of

1.1.7

Insurance

6.1.1, 7.3.4, 8.2.2, 9.3.2, 9.8.4, 9.9.1, 9.10.2, 10.2.5,

11

Insurance, Notice of Cancellation or Expiration

11.1.4, 11.2.3

Insurance, Contractor's Liability

11.1

Insurance, Effective Date of

8.2.2, 14.4.2

Insurance, Owner's Liability

11.2

Insurance, Property

10.2.5, 11.2, 11.4, 11.5

Insurance, Stored Materials

9.3.2

INSURANCE AND BONDS

11

Insurance Companies, Consent to Partial Occupancy

9.9.1

Insured loss, Adjustment and Settlement of

11.5

Intent of the Contract Documents

1.2.1, 4.2.7, 4.2.12, 4.2.13

Interest

13.5

Interpretation

1.1.8, 1.2.3, **1.4**, 4.1.1, 5.1, 6.1.2, 15.1.1

Interpretations, Written

4.2.11, 4.2.12

Judgment on Final Award

15.4.2

Labor and Materials, Equipment

1.1.3, 1.1.6, **3.4**, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,

5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1,

10.2.4, 14.2.1.1, 14.2.1.2

Labor Disputes

8.3.1

Laws and Regulations

1.5, 2.3.2, 3.2.3, 3.2.4, 3.6, 3.7, 3.12.10, 3.13, 9.6.4,

9.9.1, 10.2.2, 13.1, 13.3.1, 13.4.2, 13.5, 14, 15.2.8,

15.4

Liens

2.1.2, 9.3.1, 9.3.3, 9.6.8, 9.10.2, 9.10.4, 15.2.8

Limitations, Statutes of

12.2.5, 15.1.2, 15.4.1.1

Limitations of Liability

3.2.2, 3.5, 3.12.10, 3.12.10.1, 3.17, 3.18.1, 4.2.6,

4.2.7, 6.2.2, 9.4.2, 9.6.4, 9.6.7, 9.6.8, 10.2.5, 10.3.3,

11.3, 12.2.5, 13.3.1

Limitations of Time

2.1.2, 2.2, 2.5, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2.7,

5.2, 5.3, 5.4.1, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3,

9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 12.2, 13.4, 14, 15,

15.1.2, 15.1.3, 15.1.5

Materials, Hazardous

10.2.4, **10.3**

Materials, Labor, Equipment and

1.1.3, 1.1.6, 3.4.1, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,

5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2,

10.2.1.2, 10.2.4, 14.2.1.1, 14.2.1.2

Means, Methods, Techniques, Sequences and

Procedures of Construction

3.3.1, 3.12.10, 4.2.2, 4.2.7, 9.4.2

Mechanic's Lien

2.1.2, 9.3.1, 9.3.3, 9.6.8, 9.10.2, 9.10.4, 15.2.8

Mediation

8.3.1, 15.1.3.2, 15.2.1, 15.2.5, 15.2.6, **15.3**, 15.4.1,

15.4.1.1

Minor Changes in the Work

1.1.1, 3.4.2, 3.12.8, 4.2.8, 7.1, **7.4**

MISCELLANEOUS PROVISIONS

13

Modifications, Definition of

1.1.1

Modifications to the Contract

1.1.1, 1.1.2, 2.5, 3.11, 4.1.2, 4.2.1, 5.2.3, 7, 8.3.1, 9.7,

10.3.2

Mutual Responsibility

6.2

Nonconforming Work, Acceptance of

9.6.6, 9.9.3, **12.3**

Nonconforming Work, Rejection and Correction of
2.4, 2.5, 3.5, 4.2.6, 6.2.4, 9.5.1, 9.8.2, 9.9.3, 9.10.4,
12.2

Notice

1.6, 1.6.1, 1.6.2, 2.1.2, 2.2.2., 2.2.3, 2.2.4, 2.5, 3.2.4,
3.3.1, 3.7.4, 3.7.5, 3.9.2, 3.12.9, 3.12.10, 5.2.1, 7.4,
8.2.2 9.6.8, 9.7, 9.10.1, 10.2.8, 10.3.2, 11.5, 12.2.2.1,
13.4.1, 13.4.2, 14.1, 14.2.2, 14.4.2, 15.1.3, 15.1.5,
15.1.6, 15.4.1

Notice of Cancellation or Expiration of Insurance
11.1.4, 11.2.3

Notice of Claims

1.6.2, 2.1.2, 3.7.4, 9.6.8, 10.2.8, **15.1.3**, 15.1.5,
15.1.6, 15.2.8, 15.3.2, 15.4.1

Notice of Testing and Inspections
13.4.1, 13.4.2

Observations, Contractor's
3.2, 3.7.4

Occupancy

2.3.1, 9.6.6, 9.8

Orders, Written

1.1.1, 2.4, 3.9.2, 7, 8.2.2, 11.5, 12.1, 12.2.2.1, 13.4.2,
14.3.1

OWNER

2

Owner, Definition of

2.1.1

Owner, Evidence of Financial Arrangements

2.2, 13.2.2, 14.1.1.4

Owner, Information and Services Required of the

2.1.2, **2.2**, 2.3, 3.2.2, 3.12.10, 6.1.3, 6.1.4, 6.2.5,
9.3.2, 9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.3.3, 11.2, 13.4.1,
13.4.2, 14.1.1.4, 14.1.4, 15.1.4

Owner's Authority

1.5, 2.1.1, 2.3.32.4, 2.5, 3.4.2, 3.8.1, 3.12.10, 3.14.2,
4.1.2, 4.2.4, 4.2.9, 5.2.1, 5.2.4, 5.4.1, 6.1, 6.3, 7.2.1,
7.3.1, 8.2.2, 8.3.1, 9.3.2, 9.5.1, 9.6.4, 9.9.1, 9.10.2,
10.3.2, 11.4, 11.5, 12.2.2, 12.3, 13.2.2, 14.3, 14.4,
15.2.7

Owner's Insurance

11.2

Owner's Relationship with Subcontractors

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

Owner's Right to Carry Out the Work

2.5, 14.2.2

Owner's Right to Clean Up

6.3

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

6.1

Owner's Right to Stop the Work

2.4

Owner's Right to Suspend the Work

14.3

Owner's Right to Terminate the Contract

14.2, 14.4

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

1.1.1, 1.1.6, 1.1.7, **1.5**, 2.3.6, 3.2.2, 3.11, 3.17, 4.2.12,
5.3

Partial Occupancy or Use

9.6.6, **9.9**

Patching, Cutting and

3.14, 6.2.5

Patents

3.17

Payment, Applications for

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

Payment, Certificates for

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

Payment, Failure of

9.5.1.3, **9.7**, 9.10.2, 13.5, 14.1.1.3, 14.2.1.2

Payment, Final

4.2.1, 4.2.9, **9.10**, 12.3, 14.2.4, 14.4.3

Payment Bond, Performance Bond and

7.3.4.4, 9.6.7, 9.10.3, **11.1.2**

Payments, Progress

9.3, **9.6**, 9.8.5, 9.10.3, 14.2.3, 15.1.4

PAYMENTS AND COMPLETION

9

Payments to Subcontractors

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

PCB

10.3.1

Performance Bond and Payment Bond

7.3.4.4, 9.6.7, 9.10.3, **11.1.2**

Permits, Fees, Notices and Compliance with Laws

2.3.1, **3.7**, 3.13, 7.3.4.4, 10.2.2

PERSONS AND PROPERTY, PROTECTION OF

10

Polychlorinated Biphenyl

10.3.1

Product Data, Definition of

3.12.2

Product Data and Samples, Shop Drawings

3.11, **3.12**, 4.2.7

Progress and Completion

4.2.2, **8.2**, 9.8, 9.9.1, 14.1.4, 15.1.4

Progress Payments

9.3, **9.6**, 9.8.5, 9.10.3, 14.2.3, 15.1.4

Project, Definition of

1.1.4

Project Representatives

4.2.10

Property Insurance

10.2.5, **11.2**

Proposal Requirements

1.1.1

PROTECTION OF PERSONS AND PROPERTY 10

Regulations and Laws

1.5, 2.3.2, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 9.9.1, 10.2.2, 13.1, 13.3, 13.4.1, 13.4.2, 13.5, 14, 15.2.8, 15.4

Rejection of Work

4.2.6, 12.2.1

Releases and Waivers of Liens

9.3.1, 9.10.2

Representations

3.2.1, 3.5, 3.12.6, 8.2.1, 9.3.3, 9.4.2, 9.5.1, 9.10.1

Representatives

2.1.1, 3.1.1, 3.9, 4.1.1, 4.2.10, 13.2.1

Responsibility for Those Performing the Work

3.3.2, 3.18, 4.2.2, 4.2.3, 5.3, 6.1.3, 6.2, 6.3, 9.5.1, 10

Retainage

9.3.1, 9.6.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3

Review of Contract Documents and Field Conditions by Contractor

3.2, 3.12.7, 6.1.3

Review of Contractor's Submittals by Owner and Architect

3.10.1, 3.10.2, 3.11, 3.12, 4.2, 5.2, 6.1.3, 9.2, 9.8.2

Review of Shop Drawings, Product Data and

Samples by Contractor

3.12

Rights and Remedies

1.1.2, 2.4, 2.5, 3.5, 3.7.4, 3.15.2, 4.2.6, 5.3, 5.4, 6.1, 6.3, 7.3.1, 8.3, 9.5.1, 9.7, 10.2.5, 10.3, 12.2.1, 12.2.2, 12.2.4, 13.3, 14, 15.4

Royalties, Patents and Copyrights

3.17

Rules and Notices for Arbitration

15.4.1

Safety of Persons and Property

10.2, 10.4

Safety Precautions and Programs

3.3.1, 4.2.2, 4.2.7, 5.3, 10.1, 10.2, 10.4

Samples, Definition of

3.12.3

Samples, Shop Drawings, Product Data and

3.11, 3.12, 4.2.7

Samples at the Site, Documents and

3.11

Schedule of Values

9.2, 9.3.1

Schedules, Construction

3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2

Separate Contracts and Contractors

1.1.4, 3.12.5, 3.14.2, 4.2.4, 4.2.7, 6, 8.3.1, 12.1.2

Separate Contractors, Definition of

6.1.1

Shop Drawings, Definition of

3.12.1

Shop Drawings, Product Data and Samples

3.11, 3.12, 4.2.7

Site, Use of

3.13, 6.1.1, 6.2.1

Site Inspections

3.2.2, 3.3.3, 3.7.1, 3.7.4, 4.2, 9.9.2, 9.4.2, 9.10.1, 13.4

Site Visits, Architect's

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.4

Special Inspections and Testing

4.2.6, 12.2.1, 13.4

Specifications, Definition of

1.1.6

Specifications

1.1.1, 1.1.6, 1.2.2, 1.5, 3.12.10, 3.17, 4.2.14

Statute of Limitations

15.1.2, 15.4.1.1

Stopping the Work

2.2.2, 2.4, 9.7, 10.3, 14.1

Stored Materials

6.2.1, 9.3.2, 10.2.1.2, 10.2.4

Subcontractor, Definition of

5.1.1

SUBCONTRACTORS

5

Subcontractors, Work by

1.2.2, 3.3.2, 3.12.1, 3.18, 4.2.3, 5.2.3, 5.3, 5.4, 9.3.1.2, 9.6.7

Subcontractual Relations

5.3, 5.4, 9.3.1.2, 9.6, 9.10, 10.2.1, 14.1, 14.2.1

Submittals

3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 7.3.4, 9.2, 9.3, 9.8, 9.9.1, 9.10.2, 9.10.3

Submittal Schedule

3.10.2, 3.12.5, 4.2.7

Subrogation, Waivers of

6.1.1, 11.3

Substances, Hazardous

10.3

Substantial Completion

4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3, 12.2, 15.1.2

Substantial Completion, Definition of

9.8.1

Substitution of Subcontractors

5.2.3, 5.2.4

Substitution of Architect

2.3.3

Substitutions of Materials

3.4.2, 3.5, 7.3.8

Sub-subcontractor, Definition of

5.1.2

Subsurface Conditions

3.7.4

Successors and Assigns

13.2

Superintendent

3.9, 10.2.6

Supervision and Construction Procedures

1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3, 7.3.4, 8.2, 8.3.1, 9.4.2, 10, 12, 14, 15.1.4

Suppliers

1.5, 3.12.1, 4.2.4, 4.2.6, 5.2.1, 9.3, 9.4.2, 9.5.4, 9.6, 9.10.5, 14.2.1

Surety

5.4.1.2, 9.6.8, 9.8.5, 9.10.2, 9.10.3, 11.1.2, 14.2.2, 15.2.7

Surety, Consent of

9.8.5, 9.10.2, 9.10.3

Surveys

1.1.7, 2.3.4

Suspension by the Owner for Convenience

14.3

Suspension of the Work

3.7.5, 5.4.2, 14.3

Suspension or Termination of the Contract

5.4.1.1, 14

Taxes

3.6, 3.8.2.1, 7.3.4.4

Termination by the Contractor

14.1, 15.1.7

Termination by the Owner for Cause

5.4.1.1, 14.2, 15.1.7

Termination by the Owner for Convenience

14.4

Termination of the Architect

2.3.3

Termination of the Contractor Employment

14.2.2

TERMINATION OR SUSPENSION OF THE CONTRACT

14

Tests and Inspections

3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 10.3.2, 12.2.1, 13.4

TIME

8

Time, Delays and Extensions of

3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, 8.3, 9.5.1, 9.7, 10.3.2, 10.4, 14.3.2, 15.1.6, 15.2.5

Time Limits

2.1.2, 2.2, 2.5, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2, 5.2, 5.3, 5.4, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3, 9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 12.2, 13.4, 14, 15.1.2, 15.1.3, 15.4

Time Limits on Claims

3.7.4, 10.2.8, 15.1.2, 15.1.3

Title to Work

9.3.2, 9.3.3

UNCOVERING AND CORRECTION OF WORK

12

Uncovering of Work

12.1

Unforeseen Conditions, Concealed or Unknown

3.7.4, 8.3.1, 10.3

Unit Prices

7.3.3.2, 9.1.2

Use of Documents

1.1.1, 1.5, 2.3.6, 3.12.6, 5.3

Use of Site

3.13, 6.1.1, 6.2.1

Values, Schedule of

9.2, 9.3.1

Waiver of Claims by the Architect

13.3.2

Waiver of Claims by the Contractor

9.10.5, 13.3.2, 15.1.7

Waiver of Claims by the Owner

9.9.3, 9.10.3, 9.10.4, 12.2.2.1, 13.3.2, 14.2.4, 15.1.7

Waiver of Consequential Damages

14.2.4, 15.1.7

Waiver of Liens

9.3, 9.10.2, 9.10.4

Waivers of Subrogation

6.1.1, 11.3

Warranty

3.5, 4.2.9, 9.3.3, 9.8.4, 9.9.1, 9.10.2, 9.10.4, 12.2.2, 15.1.2

Weather Delays

8.3, 15.1.6.2

Work, Definition of

1.1.3

Written Consent

1.5.2, 3.4.2, 3.7.4, 3.12.8, 3.14.2, 4.1.2, 9.3.2, 9.10.3, 13.2, 13.3.2, 15.4.4.2

Written Interpretations

4.2.11, 4.2.12

Written Orders

1.1.1, 2.4, 3.9, 7, 8.2.2, 12.1, 12.2, 13.4.2, 14.3.1

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

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

§ 1.1.2 The Contract

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

§ 1.1.3 The Work

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

§ 1.1.4 The Project

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

§ 1.1.5 The Drawings

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

§ 1.1.6 The Specifications

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

§ 1.1.7 Instruments of Service

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

§ 1.1.8 Initial Decision Maker

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

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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

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

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

§ 1.3 Capitalization

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

§ 1.4 Interpretation

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

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

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

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

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

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

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or

relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

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

§ 2.2 Evidence of the Owner's Financial Arrangements

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

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

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

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

§ 2.3 Information and Services Required of the Owner

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

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

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

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

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

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

§ 2.4 Owner's Right to Stop the Work

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

§ 2.5 Owner's Right to Carry Out the Work

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

ARTICLE 3 CONTRACTOR

§ 3.1 General

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

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

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

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

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as

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

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

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

§ 3.3 Supervision and Construction Procedures

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

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

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

§ 3.4 Labor and Materials

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

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

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

§ 3.5 Warranty

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

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

§ 3.6 Taxes

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

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

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

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

§ 3.7.4 Concealed or Unknown Conditions

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

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

§ 3.8 Allowances

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

§ 3.8.2 Unless otherwise provided in the Contract Documents,

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

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

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

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

§ 3.10 Contractor's Construction and Submittal Schedules

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

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and

similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

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

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

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

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

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

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

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

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

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

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

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will

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

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

§ 3.13 Use of Site

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

§ 3.14 Cutting and Patching

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

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

§ 3.15 Cleaning Up

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

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

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

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

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

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

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

§ 4.2 Administration of the Contract

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

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

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

§ 4.2.4 Communications

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

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

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

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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

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

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

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

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

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

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

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in

number and means a Subcontractor or an authorized representative of the Subcontractor. The term “Subcontractor” does not include a Separate Contractor or the subcontractors of a Separate Contractor.

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

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

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

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

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

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

§ 5.3 Subcontractual Relations

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

§ 5.4 Contingent Assignment of Subcontracts

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

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

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

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

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

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

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

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

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

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

§ 6.2 Mutual Responsibility

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

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

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

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

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

§ 6.3 Owner's Right to Clean Up

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

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

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

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

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

§ 7.2 Change Orders

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

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

§ 7.3 Construction Change Directives

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

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

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

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

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

- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

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

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

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

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

§ 7.4 Minor Changes in the Work

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

ARTICLE 8 TIME

§ 8.1 Definitions

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

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

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

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

§ 8.2 Progress and Completion

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

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

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

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

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

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

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

§ 9.2 Schedule of Values

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

§ 9.3 Applications for Payment

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

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

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

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

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

§ 9.4 Certificates for Payment

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

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

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

- .1 defective Work not remedied;
 - .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
 - .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
 - .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
 - .5 damage to the Owner or a Separate Contractor;
 - .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- or

.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;

- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed

by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the

procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

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

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

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

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

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect

timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

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

§ 13.5 Interest

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

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract

Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work

properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term “Claim” also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker’s decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor’s Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party

provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.



City of Ketchum

March 2, 2020

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

Recommendation To Provide Direction to Staff Regarding 2020 Sustainability Goals and FY 20 Procurement Plans

Recommendation and Summary

Staff is requesting direction from the council regarding budgeted FY 20 procurement items that may be affected by the City's recently adopted sustainability goals. As such, there is no motion.

The reasons for the request are as follows:

- The City recently adopted sustainability goals which include the purchase of electric vehicles.
- The City has several budgeted and planned procurements of capital goods, including vehicles.

Introduction and History

During the February 3, 2020, meeting, the Ketchum City Council adopted a 2020 Sustainability Action Plan which included several goals to be accomplished by September 30, 2020. Among the FY 20 goals was "when replacing or purchasing new city vehicles, when feasible, replace vehicles with electric vehicles."

The City of Ketchum's adopted FY 20 budget includes the procurement of a truck and lawn mower for the facilities maintenance division as well as a van for the recreation department. These procurements have not yet been executed by staff.

Analysis

Prior to initiating the procurement process for the above noted items, staff is seeking direction from the Council on whether to proceed with the procurement of conventionally powered (gas/diesel) units. Staff has been unable to locate available electrically powered units of the planned items from original equipment manufacturers within budgeted levels. However, it appears as though several automakers are preparing for the release of electric trucks by early 2021. The timeline on the availability of electrically powered commercial lawnmowers is less certain but there are indications that they may also be available next fiscal year.

For both types of equipment (automobiles and lawnmowers), early indications are that there is likely to be a cost premium associated with the new technology. Relative to our existing fleet purchase arrangements, staff anticipates the premium to be approximately 50% of the purchase price. So, a conventionally powered facilities maintenance pick-up truck budgeted at \$35,000 is likely to cost the City closer to \$50,000. In addition, there are charging infrastructure costs estimated at \$2,500 per unit.

While the current vehicles are budgeted for procurement in this fiscal year, it appears likely that the useful life of each may be able to be extended through increased maintenance or repairs. However, delaying the purchases

will cause the City to incur both those repair costs as well as the unit price premiums noted above. These increases may potentially be offset by lower operating costs.

Sustainability

As discussed above, the direction provided by the Council will help determine the achievement of goals of the 2020 Ketchum Sustainability Action Plan related to vehicle purchases.

Financial Impact

The purchases noted in this staff report are included in the FY 20 budget at the levels associated with conventionally powered units. To the extent that electrically powered units are desired, the City will incur additional costs related to both the delay of purchase as well as premiums associated with procuring each unit and related infrastructure. The noted cost impacts would affect various Capital Improvement Funds.

Attachments

None



City of Ketchum
City Hall

March 2, 2020

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

Recommendation to Restore Reduced Funding for Wagon Days Street Party

Recommendation and Summary

Staff is recommending City Council restore funding for the Wagon Days Street Party and adopt with the following motion:

"I move to restore funding in the amount of \$10,000 for the 2020 Wagon Days Street Party."

The reasons for the recommendation are as follows:

- Wagon Days activities were expanded in 2016 with the addition of the first Wagon Days Street Party.
- The Wagon Days Street Party's success and participation has grown over the past 4 years.
- The Street Party offers a reason to stay in town after the parade and provides an opportunity for local vendors to enjoy Wagon Days while offering their product to a guaranteed audience of Ketchum residents and visitors.

Current Report

Staff is requesting \$10,000 in additional funding for Wagon Days to preserve the Street Party. The expansion of Wagon Days in 2016 with live music after the parade, and the subsequent offer to local vendors to serve a large customer base of residents and visitors, has been well-received by the community. Eliminating the Street Party will take the opportunity away from the local vendors and the public. The live music element draws the community and visitors to the Street Party and nearby children's area. The Street Party keeps people in town supporting our local businesses and takes pressure off the roadways for those who leave directly after the parade.

Analysis

In 2016, City Council agreed to expand Wagon Days activities and approved \$14,700 to cover live music, including artist fee, stage and sound for a Street Party. In 2017, City Council approved an additional \$4,300 to cover live music costs for the Street Party at the 60th anniversary celebration of Wagon Days. In 2018, costs for the Street Party totaled \$15,000 and in 2019, \$16,100.

Due to budget constraints for FY20, Council decision was to decrease funding across the board, which included \$14,700 for Wagon Days, eliminating the Street Party.

Staff has analyzed options for reducing costs to potentially continue the Street Party event. One was to eliminate the stage and put an artist on the Town Square stage. This is problematic because the Papoose Club uses the entire Town Square until Sunday afternoon.

The preferred option is to rent a smaller, less expensive stage and place it in the same location as in previous years. The cost for the stage used for the Street Party, including sound, is \$6,000 and is transported from Salt Lake City. This can be substantially reduced by hiring an artist with a lower fee and one that does not require the large stage.

Financial Requirement/Impact

The cost estimate to retain the Street Party is \$10,000. There are sufficient funds to cover the cost in the LOT fund balance.