



Town Council
Tuesday, March 12, 2024
Public Meeting Room / Eagle Town Hall
200 Broadway Eagle, CO

*This agenda and the meetings can be viewed at www.Townofeagle.org.
Times listed are approximate and are subject to change.*

TOWN COUNCIL MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION *This will be an in-person meeting using Teams. Please note: All participants must remain muted until they are requested to speak. This will reduce background noise disruptions to the meeting attendees. When it's your turn to speak, you will have three (3) minutes for public comment. PUBLIC COMMENTS: If you are unable to attend, public comments regarding any items on this agenda can be submitted to Jenny Rakow, Town Clerk, and will be included as part of the record. For technical difficulties, please email jenny.rakow@townofeagle.org and we will do our best to assist you.*

1. **Microsoft Teams meeting**

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: 236 651 740 956

Passcode: Bu3EG2

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[+1 469-770-0416](tel:+14697700416), [711750520#](tel:+1711750520) United States, Dallas

Phone Conference ID: 711 750 520#

CALL TO ORDER - 6:00 PM

ROLL CALL

ADOPTION OF AGENDA *Opportunity for amendment or deletions to the agenda.*

PUBLIC COMMENT - 6:05 PM *Citizen public comment offers an opportunity for citizens to express opinions or ask questions regarding town services, policies, or other matters of community concern, and any items that are not on the agenda. Please attempt to keep comments to three (3) minutes; time limits are established to provide efficiency in the conduct of the meeting and to allow equal opportunity for everyone wishing to speak. When appropriate, any questions by the public during public comment will be followed up on by the Town Manager and Town staff. Those who are speaking are requested to state their name and address for the record.*

CONSENT AGENDA - 6:10 PM *Consent agenda items are routine Town business, items that have received clear direction previously from the council, final land-use file documents after the public hearing has been closed, or which do not require council deliberation.*

1. Minutes - February 27, 2024
2. Bill Pay - February 2024
3. Resolution 20, Series 2024 "A Resolution of the Town Council of the Town of Eagle, Colorado Supporting a Grant Application to the Colorado Department of Local Affairs Rural Economic Development Initiative ("REDI") Program"

4. Resolution 21, Series 2024 "A Resolution of the Town Council of the Town of Eagle, Colorado Approving AIA Document A133–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructors and AIA Document A201-2017, General Conditions of the Contract for Construction Management/General Contractor (CMGC) Services for the Eagle Pool Replacement Project."

STAFF REPORTS - 6:15 PM *The Town Manager and department staff prepare and provide internal updates to the council.*

1. Town Manager Update
2. Department Update

BUSINESS ITEMS - 6:20 PM *Items and / or Public Hearings are listed under Business may be old or new and may require review or action by the council.*

1. Ordinance 02, Series 2024 "An Ordinance of the Town Council of the Town of Eagle, Colorado, Amending Title 11 of the Eagle Municipal Code by the Addition of a New Chapter 11.13, to Regulate Electric Assisted Bicycles"
2. Resolution 19, Series 2024 "A Resolution of the Town Council of the Town of Eagle, Colorado Supporting a Grant Application to the Colorado Department of Local Affairs Main Street Live Program for Old Town Hall Planning"

COUNCIL DISCUSSION AND FUTURE AGENDA ITEMS - 6:50 PM *Council will use this time to propose future agenda items, provide updates on Council Committees, and address general discussion items.*

EXECUTIVE SESSION - 6:55 PM

1. To hold a conference with the Town Attorney and special counsel pursuant to C.R.S. § 24-6-402(4)(b); and to determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators pursuant to CRS § 24-6-402(4)(e), regarding a Resident Occupied (RO) deed restriction for the Seven Hermits Condominiums in Haymeadow.
2. To hold a conference with the Town Attorney to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b), regarding Helen Jane Tully v. Terrace Homeowners Association B, Inc. v. Town of Eagle, case number 2023CV30104.
3. To determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(4)(e) regarding Brue Capital, the Brush Creek Road extension, and Vested Rights.
4. And further move to adjourn the regular meeting at the conclusion of the executive session.

ADJOURN - 7:30 PM

I hereby certify that the above Notice of Meeting was posted by me in the designated location at least 24 hours prior to said meeting.



Jenny Rakow, CMC
Town Clerk

PUBLIC WIFI – Eagle Guest



MEETING MINUTES
Town Council
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TOWN COUNCIL MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION *This was an in-person meeting using Teams.*

CALL TO ORDER - 6:00 PM

ROLL CALL

COUNCIL MEMBERS PRESENT

Scott Turnipseed, Geoffrey Grimmer, Nick Sunday,
Jamie Woodworth Foral, Bryan Woods

COUNCIL MEMBERS ABSENT

Mikel Kerst and Ellen Bodenhemier

STAFF PRESENT

Larry Pardee, Town Manager
Melissa Daruna, Assistant Town Manager
Matt Mire, Town Attorney (Virtual)
Jenny Rakow, Town Clerk
Tom Gosiorowski, Public Works Director
Peyton Heitzman, Planner
Lynette Horan, Human Resources Manager (Virtual)
Cliff Simonton, Interim Community Development Director
Sydney Dynek, Planner
Jamie Wilson, Communications & Marketing Specialist
Kira Koppel, Sustainability Specialist
Brian Lieberman, Open Space & Trails Manager
Ryan Goebel, IT Analyst
Kevin Aoki, Information Technology Manager
Carrie Buhlman, Interim Police Chief
Daniel Suhersted, Patrol Officer

ADOPTION OF AGENDA

MOTION: Council Member Nick Sunday motioned to adopt the agenda as presented. The motion was seconded and passed with a vote of 5 in favor (Turnipseed, Grimmer, Sunday, Woodworth Foral, and Woods) and 0 opposed.

PUBLIC COMMENT

Tim McMahon, Avon –urged the council to consider removing taxes that affect feminine care products.

PRESENTATIONS

1. One Book One Valley, Proclamation 2024 - Lori Ann Barnes, Director of Library Services Vail Public Library
Lori Ann Barnes presented this item.

Mayor Turnipseed read the proclamation into the record.

CONSENT AGENDA

MOTION: Council Member Nick Sunday motioned to approve the consent agenda. The motion was seconded and with a vote of 5 in favor (Turnipseed, Grimmer, Sunday, Woodworth Foral, and Woods) and 0 opposed.

1. Minutes - February 13, 2024
2. Resolution 13, Series 2024 "A Resolution of the Town Council of the Town of Eagle, Colorado, Amending a Resolution Approving a Lot Line Adjustment for Lots 6 and 7, Block 1, Eby Creek Subdivision to Correct an Error Regarding the Resolution Number"
3. Resolution 14, Series 2024 "A Resolution by the Town Council of the Town of Eagle, Colorado, Authorizing the Release of Letter of Credit No.: SLCMMSP08162 to Black Hills Corporation for Completion of Revegetation Requirements Along Segments of the Avon to Rifle Pipeline in Open Space Properties"
4. Resolution 15, Series 2024 "A Resolution of the Town Council of the Town of Eagle, Colorado Approving a Permanent Easement Agreement with Sawatch 263 Rd, LLC"
5. Resolution 16, Series 2024 "A Resolution of the Town Council of the Town of Eagle, Colorado Approving the Fifth Amendment to the Annexation and Development Agreement for the Haymeadow Property"
6. Resolution 17, Series 2024 "A Resolution of the Town Council of the Town of Eagle, Colorado Approving an Underground Right-of-Way Easement Agreement with Holy Cross Energy"
7. Tree City USA Proclamation
8. Request for Letter of Support for Phase I of the Colorado West RESCUE Project for Cottonwood Pass & Glenwood Canyon Improvements

STAFF REPORTS

1. Town Manager Update

BUSINESS ITEMS

1. Sustainability Community Funding Request: Adam Palmer Sustainability Fund
Laura Hartmann was present for this item.

Council comments: discussion on additional partners for this request. Inquiry on process and why this was not part of the budget and selection process in 2023. Staff provided background about the program and noted that it is new in 2024, therefore was not part of the 2023 discussion. Concern about spending 90% of the budget so early in the year.

MOTION: Council Member Nick Sunday motioned to approve the \$25,000 sustainability funding request for the Adam Palmer Sustainability Fund to be used to Green the Brush Creek Elementary School Greenhouse and to approve an expenditure of \$25,000 from the Sustainability Initiatives budget, all of which will come from the 25% pertaining to community initiatives. The motion was seconded and with a vote of 5 in favor (Turnipseed, Grimmer, Sunday, Woodworth Foral, and Woods) and 0 opposed.

COUNCIL DISCUSSION AND FUTURE AGENDA ITEMS

Council Member Grimmer stated he did a ride along with Eagle Police Department and encouraged other members to do the same.

EXECUTIVE SESSION - 6:25 PM

MOTION: Council Member Scott Turnipseed motioned to enter into Executive Session to consider the purchase, acquisition, lease, transfer or sale of real, personal or other property, pursuant to C.R.S. § 24-6-402(4)(a), and to determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(4)(e), regarding the possible purchase of open space within the Town and to adjourn the regular meeting at its conclusion. “The motion was seconded and passed with a vote of 5 in favor (Turnipseed, Grimmer, Sunday, Woodworth Foral, and Woods) and 0 opposed.

ADJOURN - 6:45 PM

Date:

Scott Turnipseed, Mayor

Jenny Rakow, CMC Town Clerk

**BILL SCHEDULE
FEBRUARY 2024**

Town Council

WR Communications Inc	Professional Services-Quality of Life	3,500.00
Walking Mountains Science Center	Special Council Funding - Engergy Rebates	13,707.00
Eagle Arts	Community Requests	3,223.00
Eagle Climbing + Fitness, LLC	Community Requests	467.00
Eagle Valley Land Trust	Community Requests	1,071.00
Eagle Valley Skating Association	Community Requests	2,196.00
Little Bird Creative Community	Community Requests	686.00
St Clare Of Assisi Parish	Community Requests	1,643.00
Total Town Council		\$ 26,493.00

General Government

CEBT	Health & Life Ins. Payable	7,570.66
Rocky Mountain Reserve LLC	Health & Insurance Benefits	172.86
Standard Insurance Company	Health & Life Ins. Payable	487.27
Amazon	Office Supplies	20.04
Cintas Corporation	Office Supplies	23.48
Signature Signs Inc	Office Supplies	7.00
Eagle County Clerk & Recorder	Election Expense	2,108.55
ICLEI	Dues & Subscriptions	1,200.00
Northwest Colo Council Of Gov.	Dues & Subscriptions	7,044.00
Walking Mountains Science Center	Dues & Subscriptions	9,278.00
Eagle River Fire Protection District	Professional Services	20,000.00
KLJ Engineering LLC	Professional Services	1,063.72
Love In Practice, LLC	Professional Services	1,900.00
Hoffman, Parker, Wilson Carberry PC	Legal	7,433.00
El Segundo	Meeting Expense	167.50
Vail Valley Partnership	Tuition & Books	895.00
Habitat For Humanity Vail Valley, Inc.	Contract Payments	332,552.75
Total General Government		\$ 391,923.83

General Administration

Son Ray, LLC	Deposits Receivable	2,754.00
CEBT	Health & Life Ins. Payable	16,783.72
Family Support Registry	Misc. Deductions Payable	146.76
Abrams, Chase	Facility Usage Deposit Refund	375.00
Barrera, Apolonio	Facility Usage Deposit Refund	650.00
Cottonwood Schole	Facility Usage Deposit Refund	375.00
Eagle Valley High School	Facility Usage Deposit Refund	650.00
Lujan, Carlos	Facility Usage Deposit Refund	675.00
Martinez, Judith	Facility Usage Deposit Refund	125.00
Mountain Tots Preschool	Facility Usage Deposit Refund	750.00
Ordonez, Elsa	Facility Usage Deposit Refund	750.00
Tellez, Gladys	Facility Usage Deposit Refund	375.00
CEBT	Health & Life Ins. Payable	18,166.40
Rocky Mountain Reserve LLC	Health & Insurance Benefits	259.30
Standard Insurance Company	Health & Life Ins. Payable	532.22
CEBT	Retirement	4.50
Amazon	Office Supplies	140.47

General Administration (Cont.)

Cintas Corporation	Office Supplies	133.04
Employer's Council Services, Inc.	Office Supplies	200.00
Flowerhound Co	Employee Appreciation	75.00
Rtic	Employee Appreciation	370.36
Pitney Bowes Bank, Inc Reserve Acct	Communication & Shipping	1,000.00
Column Software, PBC	Legal Notices	63.90
Hootsuite Inc	Dues & Subscriptions	1,188.00
Impact Development Fund	Dues & Subscriptions	1,500.00
Mailchimp	Dues & Subscriptions	116.00
Mountaincareers.Com	Dues & Subscriptions	159.00
Society For Human Resource	Dues & Subscriptions	244.00
Son Ray, LLC	Employee Housing Rental Exp	2,790.95
Chase Paymentech	C.C. Transaction Fees	433.06
Xpress Bill Pay	C.C. Transaction Fees	54.56
Employer's Council Services, Inc.	Professional Services	277.50
Hoffman, Parker, Wilson Carberry PC	Legal	382.50
Alliance Moving Systems LLC	Repair & Maintenance Services	50.00
Caselle, Inc.	Computer Support	3,396.90
Civic Plus	Computer Support	16,044.69
Peak Performance Imaging	Computer Support	5,350.00
Xpress Bill Pay	Computer Support	50.00
Kane, Jill	Travel	87.64
Kelly Huitt	Travel	87.64
Eagle Valley Commercial, LLC	Meeting Expense	350.00
Cirsa	Insurance - Pavilion	522.56
Total General Administration		\$ 78,439.67

Community Development

CEBT	Health & Life Ins. Payable	16,264.44
Rocky Mountain Reserve LLC	Health & Insurance Benefits	288.11
Standard Insurance Company	Health & Life Ins. Payable	615.66
Amazon	Office Supplies	95.53
Costco	Office Supplies	38.99
Flowerhound Co	Office Supplies	20.50
Down Valley Tire Pros	Vehicle Repair & Maintenance Supplies	69.94
Fleet Services	Fuel	120.54
Amazon	Equipment	158.99
Colorado Mtn. News Media	Recruitment	1,151.28
Baseline Engineering Corporation	Professional Services	2,098.75
McCool Development Solutions, LLC	Professional Services	6,955.00
Column Software, PBC	Planning Reimbursable	47.52
Garfield & Hecht, P.C.	Planning Reimbursable	3,914.00
Hoffman, Parker, Wilson Carberry PC	Planning Reimbursable	4,071.00
Kipp Land Surveying LLC	Planning Reimbursable	1,100.00
LRE Water	Planning Reimbursable	5,242.50
Mott Macdonald	Planning Reimbursable	5,109.00
Hoffman, Parker, Wilson Carberry PC	Legal	157.50
Down Valley Tire Pros	Repair & Maintenance Services	110.00
Performance Automotive Center	Repair & Maintenance Services	13.00
Town Of Gypsum	Contract Services	2,932.50

Community Development (Cont.)

TSC, LLC	Contract Services	8,695.20
American Planning	Tuition & Books	15.00
Heitzman, Peyton	Tuition & Books	310.00
International Code Council	Tuition & Books	112.00
Civic Plus	Recording Documents	7,200.00
Total Community Development		\$ 66,906.95

Municipal Court

CEBT	Health & Life Ins. Payable	519.27
Rocky Mountain Reserve LLC	Health & Insurance Benefits	7.21
Standard Insurance Company	Health & Life Ins. Payable	16.90
Amazon	Office Supplies	19.63
Gendelman Klimas, Ltd	Legal	3,000.00
Caselle, Inc.	Computer Support	551.32
Ace Security And Safety Services LLC	Contract Payments	560.00
Johnson, Erik A.	Contract Payments	1,500.00
Total Municipal Court		\$ 6,174.33

Streets

CEBT	Health & Life Ins. Payable	10,287.24
Rocky Mountain Reserve LLC	Health & Insurance Benefits	314.52
Standard Insurance Company	Health & Life Ins. Payable	618.22
Amazon	Office Supplies	9.99
Cintas Corporation	Office Supplies	44.02
King Soopers Customer Charges	Office Supplies	12.12
Quill Corporation	Office Supplies	59.79
Wylaco Supply Co	Operating Supplies	67.50
Trick Threads	Uniforms	18.00
Alpine Lumber Co.	Repair & Maintenance Supplies	10.14
Consolidated Electrical Distributors Inc	Repair & Maintenance Supplies	2,333.05
Costco	Repair & Maintenance Supplies	17.38
Ewing Trucking And Construction LLC	Repair & Maintenance Supplies	9,864.48
Glenwood Springs Auto Parts Inc (Napa)	Repair & Maintenance Supplies	1,401.17
Grainger	Repair & Maintenance Supplies	262.73
Lawson Products	Repair & Maintenance Supplies	789.06
Mid-American Research Chemical	Repair & Maintenance Supplies	546.00
Signature Signs Inc	Repair & Maintenance Supplies	126.70
Wagner Equipment Co	Repair & Maintenance Supplies	7,160.01
Wear Parts & Equip Co, Inc	Repair & Maintenance Supplies	3,685.01
Collett Enterprises	Vehicle Repair & Maintenance Supplies	260.80
Glenwood Springs Auto Parts Inc (Napa)	Vehicle Repair & Maintenance Supplies	505.85
Grainger	Vehicle Repair & Maintenance Supplies	135.69
McCandless Truck Center	Vehicle Repair & Maintenance Supplies	609.16
Collett Enterprises	Fuel	564.46
Fleet Services	Fuel	5,868.88
Holy Cross Energy	Utility Services	4,448.73
Colorado Mtn. News Media	Recruitment	1,079.18
Indeed	Recruitment	63.17
Native Electric	Repair & Maintenance Services	135.00
Safety-Kleen Systems, Inc.	Repair & Maintenance Services	299.06

Streets (Cont.)

Utility Notification Center Of Colorado	Repair & Maintenance Services	4.30
Wagner Equipment Co	Repair & Maintenance Services	2,185.00
Caselle, Inc.	Computer Support	36.28
Colorado Mountain Medical, LLC	CDL Testing	514.00
MCC Drug & Alcohol Screening	CDL Testing	150.00
Procom	CDL Testing	154.00
Total Streets		\$ 54,640.69

Public Safety

Pinnacol Assurance	Worker's Compensation	124.80
CEBT	Health & Life Ins. Payable	53,560.78
Rocky Mountain Reserve LLC	Health & Insurance Benefits	806.23
Standard Insurance Company	Health & Life Ins. Payable	1,864.45
Amazon	Office Supplies	38.98
Gypsum Eagle Ace Hardware	Office Supplies	9.99
Signature Signs Inc	Office Supplies	7.00
Zazzle Inc	Office Supplies	26.73
North American Rescue	Operating Supplies	219.30
Micro Plastics Inc	Employee Appreciation	99.53
Amazon	Uniforms	195.84
Axon Enterprise, Inc.	Uniforms	284.70
Blauer	Uniforms	405.95
Delp, Ronald	Uniforms	108.00
Galls, LLC	Uniforms	239.49
L.N. Curtis & Sons	Uniforms	1,441.02
The Public Safety Store	Uniforms	61.91
Auto Zone, Inc	Vehicle Repair & Maintenance Supplies	214.99
Eagle County Fleet Service	Vehicle Repair & Maintenance Supplies	241.27
Shell Oil	Vehicle Repair & Maintenance Supplies	52.49
Wanderin Wrench	Vehicle Repair & Maintenance Supplies	607.79
Fleet Services	Fuel	2,423.49
Mile High Shooting Accessories, LLC	Equipment (Non-Capital)	9,371.00
USPS	Communication & Shipping	35.00
A.L.E.R.T./S.A.M.	Dues & Subscriptions	100.00
Colorado Assn Chief Of Police	Dues & Subscriptions	250.00
FBI-LEEDA	Dues & Subscriptions	50.00
Int'l Assoc. For Property & Evidence Inc	Dues & Subscriptions	130.00
National Tactical Officers Association	Dues & Subscriptions	35.00
Natl Assoc. Of School Resource Officers	Dues & Subscriptions	50.00
AT&T Mobility	Utility Services	1,573.02
Indeed	Recruitment	48.00
Apex Lean Consulting, LLC	Professional Services	130.00
National Velvet	Professional Services	59.53
Hoffman, Parker, Wilson Carberry PC	Legal	2,317.50
Eagle County Fleet Service	Repair & Maintenance Services	855.01
Performance Automotive Center	Repair & Maintenance Services	121.00
Wanderin Wrench	Repair & Maintenance Services	157.50
Tyler Technologies, Inc	Computer Support	3,819.15
King Soopers Customer Charges	Meeting Expense	50.39
Moe's Original BBQ	Meeting Expense	135.72

Public Safety (Cont.)

Walmart	Meeting Expense	(1.56)
Blue To Gold, LLC	Tuition & Books	399.00
Dolan Consulting Group LLC	Tuition & Books	325.00
Eagle County Animal Control	Animal Control	5,270.00
Transunion Risk & Alternative Data Solut	Contract Payments	105.00
Total Public Safety		\$ 88,419.99

Buildings & Grounds

CEBT	Health & Life Ins. Payable	15,464.82
Rocky Mountain Reserve LLC	Health & Insurance Benefits	266.51
Standard Insurance Company	Health & Life Ins. Payable	439.31
Amazon	Office Supplies	9.99
Cintas Corporation	Office Supplies	44.02
King Soopers Customer Charges	Office Supplies	12.12
Quill Corporation	Office Supplies	59.79
Alpine Lumber Co.	Operating Supplies	45.81
Gypsum Eagle Ace Hardware	Operating Supplies	7.59
Factory Outdoor	Uniforms	164.98
Trick Threads	Uniforms	18.24
United Rentals (North America) Inc	Uniforms	10.49
Alpine Lumber Co.	Repair & Maintenance Supplies	146.22
Eagle Lock & Key	Repair & Maintenance Supplies	118.50
Ferguson Enterprises, Inc.	Repair & Maintenance Supplies	1,519.69
G & S Tool Clinic, LLC	Repair & Maintenance Supplies	188.98
Grainger	Repair & Maintenance Supplies	257.05
Gypsum Eagle Ace Hardware	Repair & Maintenance Supplies	243.94
Mac Equipment Inc	Repair & Maintenance Supplies	1,343.37
Native Electric	Repair & Maintenance Supplies	18.92
Paint Bucket	Repair & Maintenance Supplies	529.04
Pet Pick-Ups	Repair & Maintenance Supplies	896.62
Pye-Barker Fire & Safety LLC	Repair & Maintenance Supplies	23.00
Sherwin-Williams Company, The	Repair & Maintenance Services	176.06
Alpine Lumber Co.	Vehicle Repair & Maintenance Supplies	66.29
Glenwood Springs Auto Parts Inc (Napa)	Vehicle Repair & Maintenance Supplies	1,425.14
Collett Enterprises	Fuel	564.46
Fleet Services	Fuel	1,135.80
School's In, LLC	Equipment (Non-Capital)	1,893.53
Black Hills Energy	Utility Services	5,673.10
Holy Cross Energy	Utility Services	8,802.93
Colorado Mtn. News Media	Recruitment	386.48
Eagle Ranch Metropolitan Dist.	Irrigation Services Agreement	3,890.58
Jerry-master Janitorial	Janitorial Maint. Contracts	4,316.00
Native Electric	Repair & Maintenance Services	155.00
Orkin	Repair & Maintenance Services	852.57
Pye-Barker Fire & Safety LLC	Repair & Maintenance Services	248.00
Skyline Mechanical, Inc.	Repair & Maintenance Services	402.50
Sno-White Linen Rental	Repair & Maintenance Services	859.44
Vail Honeywagon	Repair & Maintenance Services	943.13
Venzor Carpet Cleaning	Repair & Maintenance Services	943.88
Wagner Equipment Co	Repair & Maintenance Services	2,922.70

Buildings & Grounds (Cont.)

Caselle, Inc.	Computer Support	36.28
TK Elevator Corp.	Contract Payments	764.91
Total Buildings & Grounds		\$ 58,287.78

Information Center

Mauka Poke Bar	Meeting Expense	109.20
Total Information Center		\$ 109.20

Events

CEBT	Health & Life Ins. Payable	4,612.43
Rocky Mountain Reserve LLC	Health & Insurance Benefits	81.63
Standard Insurance Company	Health & Life Ins. Payable	165.29
Amazon	Office Supplies	209.25
Apple.Com	Dues & Subscriptions	12.02
Canva	Dues & Subscriptions	14.99
SESAC, Inc.	Dues & Subscriptions	581.00
Amazon	Meeting Expense	128.04
Hovey & Harrison	Meeting Expense	9.90
Yeti's Grind	Meeting Expense	16.00
Alzheimer's Association	Events	500.00
Eagle Arts	Events	3,000.00
Eagle Climbing + Fitness, LLC	Events	3,750.00
Porchlight Players	Events	2,500.00
Alpine Partners, LLC	Event Production	2,500.00
Total Events		\$ 18,080.55

Engineering

CEBT	Health & Life Ins. Payable	5,726.01
Rocky Mountain Reserve LLC	Health & Insurance Benefits	45.62
Standard Insurance Company	Health & Life Ins. Payable	173.18
Amazon	Office Supplies	10.00
Cintas Corporation	Office Supplies	44.02
King Soopers Customer Charges	Office Supplies	12.12
Quill Corporation	Office Supplies	59.79
I-70 Coalition	Dues & Subscriptions	2,110.00
Total Engineering		\$ 8,180.74

Information Technology

CEBT	Health & Life Ins. Payable	4,920.27
Rocky Mountain Reserve LLC	Health & Insurance Benefits	76.83
Standard Insurance Company	Health & Life Ins. Payable	189.52
Amazon	Office Supplies	917.73
SHI International Corp	Office Supplies	332.00
SHI International Corp	Equipment (Non-Capital)	24,083.96
Verizon Wireless, Bellevue	Equipment (Non-Capital)	(100.00)
CenturyLink	Utility Services	6,927.58
Northwest Colo Council Of Gov.	Utility Services	53,829.00
Verizon Wireless, Bellevue	Utility Services	3,927.18
All Mountain Technologies, LLC	Computer Support	8,817.90
Aspen Wireless Technologies, Inc.	Computer Support	13,329.50

Information Technology (Cont.)

Mammoth Networks	Computer Support	255.00
Performance Enhancements, Inc.	Computer Support	2,432.40
TEC Integration, Inc.	Computer Support	100.00
El Segundo Eagle	Meeting Expense	30.00
Professional Document Solutions, Inc.	Contract Payments	205.34
Xerox Financial Services LLC	Contract Payments	1,379.71
Total Information Technology		\$ 121,653.92

Marketing & Communications

CEBT	Health & Life Ins. Payable	954.24
Standard Insurance Company	Health & Life Ins. Payable	51.41
Stickermule	Operating Supplies	14.00
Colorado Logos	Media	1,440.00
Mountain Lifestyle LLC	Media	937.50
Richardson, Cheyene	Media	60.00
Civic Plus	Website	7,773.72
Dot Zero Multimedia	Website	480.00
Total Marketing & Communications		\$ 11,710.87

Total GENERAL FUND**\$ 931,021.52****CAPITAL IMPROVEMENT FUND**

Amazon	Town Hall Improvements-Council Room Upgrades	19.99
J A Tellez Construction LLC	Town Hall Improvements-Council Room Upgrades	1,520.00
Native Electric	Street Lights - Market Street	938.00
Martin/Martin Consulting Engineers	Street Replacement- Howard St	8,250.00
KLJ Engineering LLC	Grand Avenue Improvements	4,293.73
Stolfus & Associates	Grand Avenue Improvements	57,730.12
EMV Denver	Patrol Vehicles	112.79
Greyco Customs	Patrol Vehicles	77,531.04
PCS Mobile	Patrol Vehicles	3,242.52
Total CAPITAL IMPROVEMENT FUND		\$ 153,638.19

WASTE WATER FUND

CEBT	Health & Life Ins. Payable	12,935.23
Rocky Mountain Reserve LLC	Health & Insurance Benefits	233.65
Standard Insurance Company	Health & Life Ins. Payable	535.49
Amazon	Office Supplies	10.00
Cintas Corporation	Office Supplies	44.01
King Soopers Customer Charges	Office Supplies	12.12
Quill Corporation	Office Supplies	59.77
Western Slope Supplies Inc	Office Supplies	17.30
Gypsum Eagle Ace Hardware	Operating Supplies	17.77
Polydyne Inc.	Operating Supplies	7,590.00
Trick Threads	Uniforms	40.00
American Mechanical Services	Repair & Maintenance Supplies	11,700.86
Ferguson Enterprises, Inc.	Repair & Maintenance Supplies	110.57
Grainger	Repair & Maintenance Supplies	2,012.09
Gypsum Eagle Ace Hardware	Repair & Maintenance Supplies	645.85
Lakeside Equipment Corp	Repair & Maintenance Supplies	5,852.00

WASTE WATER FUND (Cont.)

Water Technology Group	Repair & Maintenance Supplies	2,142.97
Glenwood Springs Auto Parts Inc (Napa)	Vehicle Repair & Maintenance Supplies	25.98
Fleet Services	Fuel	170.85
Global Equipment Company Inc	Equipment (Non-Capital)	253.90
Nextrust Inc	Communication & Shipping	295.77
Black Hills Energy	Utility Services	13,123.55
Holy Cross Energy	Utility Services	10,439.77
Chase Paymentech	C.C. Transaction Fees	640.22
Xpress Bill Pay	C.C. Transaction Fees	477.45
Vranesh And Raishch, LLP	Legal & Audit	929.00
LRE Water	Engineering	913.75
Denali Water Solutions LLC	Sludge Disposal	10,497.10
American Mechanical Services	Repair & Maintenance Services	6,269.00
Utility Notification Center Of Colorado	Repair & Maintenance Services	4.30
Caselle, Inc.	Computer Support	461.08
Eagle River Water & Sanitation District	Testing & Permits	5,362.50
SGS North America Inc	Testing & Permits	4,396.48
Browns Hill Engineering	Contract Payments	2,066.20
Aspen Wireless Technologies, Inc.	Capital Expenditures	3,777.00
Martin/Martin Consulting Engineers	Sewer Line Improvements - Howard Street	4,125.00
Stolfus & Associates	Sewer Line Improvements - Grand Avenue	2,495.00
Total WASTE WATER FUND		\$ 110,683.58

WATER FUND

Wilson, Michael	Water Materials & Other Refund	990.00
Wilson, Michael	Tap Fees Refund	11,108.80
CEBT	Health & Life Ins. Payable	17,529.24
Rocky Mountain Reserve LLC	Health & Insurance Benefits	307.02
Standard Insurance Company	Health & Life Ins. Payable	679.98
Amazon	Office Supplies	10.00
Cintas Corporation	Office Supplies	44.01
King Soopers Customer Charges	Office Supplies	12.12
Quill Corporation	Office Supplies	59.78
Core & Main LP	Operating Supplies	1,202.04
DPC Industries, Inc.	Operating Supplies	190.00
Grainger	Operating Supplies	208.44
PVS DX Inc	Operating Supplies	200.00
USA Blue Book	Operating Supplies	3,134.79
Trick Threads	Uniforms	65.00
Collett Enterprises	Repair & Maintenance Supplies	253.40
Core & Main LP	Repair & Maintenance Supplies	91.80
Ferguson Enterprises, Inc.	Repair & Maintenance Supplies	316.30
Grainger	Repair & Maintenance Supplies	2,170.67
Gypsum Eagle Ace Hardware	Repair & Maintenance Supplies	117.94
Pollardwater	Repair & Maintenance Supplies	170.30
Ten Point Sales & Marketing LLC	Repair & Maintenance Supplies	4,786.45
Two Valley Tire LLC	Repair & Maintenance Supplies	6.00
Fleet Services	Fuel	249.15
Core & Main LP	Meters	2,179.00
Federal Express Corp.	Communication & Shipping	51.56

WATER FUND (Cont.)

Nexttrust Inc	Communication & Shipping	295.77
Northwest Colo Council Of Gov.	Dues & Subscriptions	2,069.00
AmeriGas	Utility Services	9,165.74
Black Hills Energy	Utility Services	174.39
Holy Cross Energy	Utility Services	13,074.61
Chase Paymentech	C.C. Transaction Fees	1,086.43
Xpress Bill Pay	C.C. Transaction Fees	654.79
LRE Water	Engineering	4,219.21
Colorado Energy Systems	Repair & Maintenance Services	4,923.01
Two Valley Tire LLC	Repair & Maintenance Services	70.00
Utility Notification Center Of Colorado	Repair & Maintenance Services	4.30
Vail Honeywagon	Repair & Maintenance Services	207.75
BC Services, Inc.	Testing & Permits	19.14
Eagle River Water & Sanitation District	Testing & Permits	310.00
SGS North America Inc	Testing & Permits	3,157.74
Caselle, Inc.	Computer Support	461.08
Colorado Mountain College	Tuition & Books	55.00
PSI Services Inc	Tuition & Books	100.00
Browns Hill Engineering	Contract Payments	8,264.80
Hoffman, Parker, Wilson Carberry PC	Cemetery Tank	1,147.50
Martin/Martin Consulting Engineers	Water Line Improvements - Howard Street	4,125.00
Stolfus & Associates	Water Line Improvements - Grand Avenue	2,495.00
Total WATER FUND		\$ 102,214.05

REFUSE FUND

Nexttrust Inc	Communication & Shipping	295.77
Chase Paymentech	C.C. Transaction Fees	194.01
Xpress Bill Pay	C.C. Transaction Fees	163.70
Vail Honeywagon	Repair & Maintenance Service	617.73
Caselle, Inc.	Computer Support	461.06
Vail Honeywagon	Contract Services	155,677.94
Total REFUSE FUND		\$ 157,410.21

STORM WATER FUND

Nexttrust Inc	Communication & Shipping	295.76
Chase Paymentech	C.C. Transaction Fees	19.40
Xpress Bill Pay	C.C. Transaction Fees	13.64
Total STORM WATER FUND		\$ 328.80

STCIF

Hoffman, Parker, Wilson Carberry PC	Legal	1,192.50
Dynamic Program Management, LLC	Multi-Use Rec Facilities	31,547.72
Hoffman, Parker, Wilson Carberry PC	Pool Replacement Project	652.50
Marcin Engineering	Multi-Use Rec Facilities - Pool Replacement	4,137.50
Ohlson Lavoie Corporation	Multi-Use Rec Facilities - Pool Replacement	200,682.03
Wiss Janney Elstner Associates Inc	Multi-Use Rec Facilities - Pool Replacement	29,263.89
Vail Valley Mountain Trails Alliance	Town Park Improvements - Haymaker Bike Park	180,000.00
Total STCIF		\$ 447,476.14

OPEN SPACE FUND

CEBT	Health & Life Ins. Payable	2,337.37
Rocky Mountain Reserve LLC	Health & Insurance Benefits	54.26
Standard Insurance Company	Health & Life Ins. Payable	135.43
Signature Signs Inc	Repair & Maintenance Supplies	102.00
Glenwood Springs Auto Parts Inc (Napa)	Vehicle Repair & Maintenance Supplies	57.98
Fleet Services	Fuel	55.83
Hoffman, Parker, Wilson Carberry PC	Legal	90.00
Vail Honeywagon	Repair & Maintenance Services	507.85
CW&H Graphics	Open Space Signage Projects	7,252.50
Total OPEN SPACE FUND		\$ 10,593.22

DDA FUND

Downtown Colorado Inc.,	Dues & Subscriptions	1,000.00
Downtown Colorado Inc.,	Tuition & Books	450.00
Total DDA FUND		\$ 1,450.00

Total	\$ 1,914,815.71
Payroll	569,628.46
Grand Total	\$ 2,484,444.17



To: Mayor Turnipseed and Town Council

From: Nikki Davis, Economic Development & Housing Specialist
CC: Downtown Development Authority

Date: March 12, 2024

Agenda Item: Resolution 20, Series 2024 "A Resolution of the Town Council of the Town of Eagle, Colorado Supporting a Grant Application to the Colorado Department of Local Affairs Rural Economic Development Initiative ("REDI") Program"

REQUEST: Staff requests the Town Council review for potential approval, Resolution 20, Series 2024 supporting a grant application that would activate the Downtown Development Authority's (DDA) Project Investment Program.

BACKGROUND: In 2020, the Eagle Downtown Development Authority (DDA) was formed as a body corporate with the purpose of enhancing and revitalizing Eagle's historic main street district ([link](#)). The adoption of Resolution 44-2022 ([link](#)) marked a significant milestone as it established the DDA's Amended Plan of Development (Plan). The Plan delineates strategies for potential public facility development and improvements to both public and private properties within the DDA boundary, aiming to enhance the overall quality of properties in the area. Furthermore, the Plan introduces property tax increment financing (TIF) as a vital financial mechanism. Subsequently, the DDA founded the Project Investment Program and formalized a Tax Increment Investment Policy ([link](#)) to provide clear directives on utilizing tax increment revenues. Aligned with the overarching vision, the DDA is focused on supporting projects, activities, and endeavors which achieve the "Downtown Eagle Strategic Priorities" as outlined in the Plan and summarized below:

- Business Community Support
- Regulatory Environment
- Communications
- Experience Economy
- Access & Mobility
- Creative Placemaking

ANALYSIS: The REDI Program aims to bolster rural communities, fostering economic diversification and fortifying Colorado's greater resilience. It allocates funds to support a spectrum of initiatives including planning, construction, programs, and capacity building. Depending on the nature of the project, local match requirements vary between 20 to 50 percent, with capacity building requiring the highest contribution. The Department of Local Affairs (DOLA) has confirmed that the DDA's objective entails a 20 percent match, annually. Notably, the REDI Program offers a multi-year award, allowing grantees a two-year window to utilize the funds. Applications are due by March 14, with grant awards anticipated to be announced in early summer.

During the DDA meeting held on February 20, the board motioned to reallocate \$10,000 from their 2024 budget to fulfill the 20 percent match requirement. Subject to budget appropriations in 2025, the board intends to pass a similar vote, unlocking an additional \$10,000 as a local match. The upcoming grant application to DOLA will seek a total of \$80,000, exclusive of a \$20,000 match divided between 2024 and 2025. Should the application prove successful, the DDA stands to secure a combined \$100,000 to administer the Project Investment Program over the next two years.

COMMUNITY INPUT: None applicable.

BUDGET / STAFF IMPACT: In 2024, the DDA plans to reallocate \$10,000 from professional services for DDA Executive Director support to contribute to the grant match. An additional \$10,000 will be allocated in 2025, contingent upon budget appropriations. The DDA aims to commit a total of \$20,000, representing 20 percent of the project's total cost, as their local matching contribution across 2024 and 2025. 2025 is not a property assessment year and the DDA anticipates minimal fluctuations in tax increment revenues.

If successfully awarded, the Town would serve as the fiscal sponsor of the award and would share grant administration duties with the DDA. The program will be actively managed by the DDA board.

STRATEGIC PLAN ALIGNMENT / STANDARDS ACHIEVED: This work aligns with the Strategic Plan's objectives to Stimulate Economic Vitality and Development and Attract Visitors.

RECOMMENDED ACTION OR PROPOSED MOTION:

Motion to **approve** or **deny** Resolution 20, Series 2024, "A Resolution of the Town Council of the Town of Eagle, Colorado Supporting a Grant Application to the Colorado Department of Local Affairs Rural Economic Development Initiative (REDI) Program."

ATTACHMENTS:

- Resolution 20, Series 2024
- [LINK](#): 2024 DDA Budget
- [LINK](#): Downtown Project Investment Program Application Template
- [LINK](#): REDI Program Guidelines

TOWN OF EAGLE, COLORADO
RESOLUTION NO. 20
(Series of 2024)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO
SUPPORTING A GRANT APPLICATION TO THE COLORADO DEPARTMENT OF LOCAL
AFFAIRS RURAL ECONOMIC DEVELOPMENT INITIATIVE (“REDI”) PROGRAM

WHEREAS, major objectives from the 2020 Town Council Strategic Plan include stimulating economic vitality and development, and attracting visitors; and

WHEREAS, Ordinance 25, Series 2020 established the Downtown Development Authority (DDA) to halt and prevent deterioration of property values, to assist in development and redevelopment, and to use its power to promote the general welfare of its district; and

WHEREAS, Resolution 44, Series 2022 approved the DDA Amended Plan of Development; and

WHEREAS, in 2022 the DDA founded the Project Investment Program to promote and support public and private property improvements, public amenities, and façade enhancements in its district; and

WHEREAS, in 2023 the DDA formalized a Tax Increment Revenue Policy to provide clear directives on utilizing tax increment revenues; and

WHEREAS, the Town will apply for \$80,000 through the Colorado Department of Local Affairs (“DOLA”) REDI Grant Program to leverage DDA tax increment revenues in support of the Project Investment Program; and

WHEREAS, in 2024 the Downtown Development Authority will reallocate \$10,000 from Professional Services. An additional \$10,000 will be allocated in 2025, contingent upon budget appropriations, for a combined total of \$20,000 as local matching contribution across 2024 and 2025; and

WHEREAS, the application for the REDI Grant Program is due March 14, 2024.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO AS FOLLOWS:

Section 1. The Town Council hereby supports the Town’s application for funds from DOLA’s REDI Grant Program.

INTRODUCED, READ, PASSED AND ADOPTED ON March 12, 2024.

TOWN OF EAGLE, COLORADO

Scott Turnipseed, Mayor

ATTEST:

Jenny Rakow, Town Clerk



To: Mayor Turnipseed and Town Council

From: Melissa Daruna, Assistant Town Manager

Date: March 12, 2024

Agenda Item: Resolution 21, Series 2024 “A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO APPROVING AIA DOCUMENT A133–2019, STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER AS CONSTRUCTORS AND AIA DOUCMENT A201-2017, GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION FOR CONSTRUCTION MANAGEMENT/GENERAL CONTRACTOR (CMGC) SERVICES FOR THE EAGLE POOL REPLACEMENT PROJECT.”

REQUEST: For Town Council to review and approve the AIA Document A133-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor and AIA Document A201-2017, General Conditions of the Contract for Construction for CMGC Services for the Eagle Pool Replacement Project.

BACKGROUND: Town staff have been coordinating the Eagle Pool Replacement project with Mountain Recreation staff to ensure efficient and effective completion of the project. In July 2023, staff selected, and Town Council approved Dynamic Program Management (DPM) for owner’s representation services to support the project and expedite the pool replacement. In the fall of 2023, the Town and Mountain Recreation staff interviewed three architectural and design firms and selected Ohlson Lavoie Corporation (OLC) as the design team for the pool project. Town and Mountain Recreation staff also interviewed three construction firms and selected JHL Constructors (JHL) to serve as CMGC for the project.

JHL is based in Englewood, Colorado and has staff local to the Eagle Valley. They have experience building municipal and recreation facilities in neighboring mountain communities, a solid understanding of managing multifaceted projects using public funds and ensuring sound construction in challenging soils.

The approval of JHL for CMGC services commits the Town the preconstruction services outlined in JHL’s proposal. Staff will bring forward an additional request to approve the Guaranteed Maximum Price (GMP) for construction prior in the coming weeks.

ANALYSIS: JHL brings the experience, technical knowledge, and expert subcontractors needed to make the Eagle Pool Replacement project a success. They are well equipped to coordinate with our design team and various specialty subcontractors. Finally, their proposal and timeline are consistent with the project budget and schedule.

COMMUNITY INPUT: Not applicable at this phase.

BUDGET / STAFF IMPACT: The agreement for pre-construction services approves a project cost of \$20,000 which is included in the approved total pool project budget of \$13 million, split between the Town and Mountain Rec.

STRATEGIC PLAN ALIGNMENT / STANDARDS ACHIEVED: The replacement of the Eagle Pool and selection of high-quality contractors to complete the project supports the Strategic Plan’s objectives to *Focus on Recreation, Events, and Open Space, and Match Infrastructure to Quality of Life*.

RECOMMENDED ACTION OR PROPOSED MOTION: A motion to **APPROVE** Resolution 21, Series 2024, A Resolution of the Town Council of the Town of Eagle, Colorado Approving AIA Document A133-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor and AIA Document A201-2017, General Conditions of the Contract for Construction for CMGC Services for the Eagle Pool Replacement Project, subject to final approval by the Town Attorney.

ATTACHMENTS:

1. AIA Document A133-2019, Standard Form of Agreement Between Owner and Construction Manager.
2. AIA Document A201-2017, General Conditions of the Contract for Construction.
3. Exhibit B, Insurance and Bonds
4. Exhibit C, CMGC RFP/Q Response
5. Resolution 21, Series 2024.

TOWN OF EAGLE, COLORADO
RESOLUTION NO. 21
(Series of 2024)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO APPROVING AIA DOCUMENT A133–2019, STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER AS CONSTRUCTORS AND AIA DOUCMENT A201-2017, GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION FOR CONSTRUCTION MANAGEMENT/GENERAL CONTRACTOR (CMGC) SERVICES FOR THE EAGLE POOL REPLACEMENT PROJECT.

WHEREAS, the Town Council adopted a strategic plan with a major objective to *Focus on Recreation, Events, and Open Space, and Match Infrastructure with Quality of Life*;

WHEREAS, the Town is working in partnership with Mountain Recreation to replace the Eagle Pool and appropriated funds in the 2024 budget to secure a CMGC firm for the project;

WHEREAS, the Town Council finds that it is in the best interest of the Town and the public health, safety and welfare to enter into the AIA Document A133-2019, Standard Form Agreement between Owner and Construction Manager as a Constructor and AIA Document A201-2017, General Conditions of the Contract for Construction for CMGC services for the Eagle Pool Replacement Project.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO AS FOLLOWS:

Section 1. The AIA Document A133-2019, Standard Form Agreement between Owner and Construction Manager and AIA Document A201-2017, General Conditions of the Contract for Construction with JHL Constructors are hereby approved in substantially the form attached hereto, subject to final approval by the Town Attorney. Upon such approval, the Mayor is authorized to execute the Agreement on behalf of the Town.

INTRODUCED, READ, PASSED AND ADOPTED ON March 12, 2024.

TOWN OF EAGLE, COLORADO

Scott Turnipseed, Mayor

ATTEST:

Jenny Rakow, Town Clerk



AIA® Document A133® – 2019

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

AGREEMENT made as of the **24th** day of October in the year 2023
(In words, indicate day, month, and year.)

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

Town of Eagle
200 Broadway
Eagle, CO 81631

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

JHL Constructors
9100 E. Panorama Drive
Suite 300
Englewood, CO 80112

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

Eagle Pool Replacement Project
1700 Bull Pasture Road
Eagle, CO 81631

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

OLC Architecture
2000 Lawrence Street
Denver, CO 80205

ADDITIONS AND DELETIONS:

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

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

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

The Owner and Construction Manager agree as follows.

Init.

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User Notes:

(909202803)

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EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT- TBD

EXHIBIT B INSURANCE AND BONDS

ARTICLE 1 INITIAL INFORMATION

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

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

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

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

Per CM/GC RFQ/P documents issued to date included in Exhibit C

§ 1.1.2 The Project's physical characteristics:

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

Per CM/GC RFQ/P documents issued to date included in Exhibit C

Init.

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User Notes:

(909202803)

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

Per CM/GC RFQ/P documents issued to date included in Exhibit C

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

.1 Design phase milestone dates, if any:

Per Schedule issued with RFQ/P documents included in Exhibit C

.2 Construction commencement date:

Per Schedule issued with RFQ/P documents included in Exhibit C

.3 Substantial Completion date or dates:

Per Schedule issued with RFQ/P documents included in Exhibit C

.4 Other milestone dates:

Per Schedule issued with RFQ/P documents included in Exhibit C

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

Per Schedule issued with RFQ/P documents included in Exhibit C

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

Per RFQ/P documents included in Exhibit C

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

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

Per RFQ/P documents included in Exhibit C

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

Melissa Daruna
200 Broadway
Eagle, CO 81631

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

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

.1 Geotechnical Engineer:

Wiss Janney Elstner
3609 S Wadsworth Blvd
Lakewood, CO 80235

.2 Civil Engineer:

Included in the Architect's scope of work

.3 Other, if any:

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

Dynamic Program Management, Owner's Representative
Post Office Box 726
Eagle, CO 81631

Surveyor – Marcin Engineering

Commissioning Agent – TBD

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

Bob McDonald
OLC Architecture
2000 Lawrence Street
Denver, CO 80205

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:

Init.

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User Notes:

(909202803)

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

Adam Fernan
JHL Constructors
9100 E. Panorama Drive
Suite 300
Englewood, CO 80112

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:

(List any Owner-specific requirements to be included in the staffing plan.)

N/A

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:

(List any Owner-specific requirements for subcontractor procurement.)

Refer to Section 3.1.11.2

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

N/A

§ 1.2 Not Used.

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

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

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

§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests and as is consistent with reasonable professional skill and care and the orderly progress of the Project. All such time periods and deadlines are of the essence. The Construction Manager warrants that the services shall be performed in a good and workmanlike manner and shall be suitable and fit for the purposes for which they are intended. The Owner agrees to furnish or approve, in a timely manner, information required

by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 2.3 General Conditions

(Paragraph deleted)

§ 2.3.1 The parties expressly acknowledge that the General Conditions are set forth in AIA Document A201™–2017, General Conditions of the Contract for Construction, as amended and supplemented by Owner, adopted by the parties the date hereof and referred to herein as "A201-2017". Where reference is made in this Agreement to a provision of A201–2017, or other Contract Document, the reference refers to that provision as amended or supplemented by the Owner. For the Preconstruction Phase, A201–2017 shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

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

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project. The Construction Manager is expected to be familiar with local building codes and requirements, and to bring to the Owner's and Architect's attention any discrepancy or compliance issue Construction Manager suspects or becomes aware of during the course of the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

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

For any Work that is specified as design build systems by the Architect the Construction Manager shall ascertain that its subcontractors' drawings and specifications are in accordance with all applicable law.

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

§ 3.1.3 Consultation

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

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and

possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using 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.

§ 3.1.4 Project Schedule

The Project Schedule is attached hereto as Exhibit C and shall not be modified without prior authorization of the Owner. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

§ 3.1.5 Phased Construction

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

§ 3.1.6 Cost Estimates

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

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

§ 3.1.6.3 Not Used.

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

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

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

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

§ 3.1.11 Subcontractors and Suppliers

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

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

The Construction Manager shall establish a process, to be reviewed and approved by the Owner, to qualify a list of local subcontractors, and will use its commercially reasonable best efforts to provide those subcontractors opportunities to bid on Work associated with the Project. As working drawings and specifications are completed, the Construction Manager shall establish bidding schedules and conduct pre-bid conferences to familiarize bidders with bidding documents, management techniques and any special systems, materials or methods. Construction Manager shall prepare scope packages for each trade which clearly identify the bid scope, including general conditions items such as cleanup and safety. The Construction Manager shall review scope packages with the Owner and Architect prior to issuing same to subcontractors. For those trades in which the Construction Manager has the qualified ability to self-perform the work, bids from the Construction Manager for self-performed work must be submitted to the Owner, Owner's Representative and Architect a minimum of 24 hours prior to bid deadline for subcontractors to be considered for award. The Construction Manager will analyze all bids and prepare; (1) a bid matrix and scoring method (approved in advance by the Owner), (2) written bid analysis, (3) review bids and bid analysis with the Owner and Architect, (4) make recommendations for contract awards, and (5) award subcontracts.

The subcontractor selected for an award will be the subcontractor whose bid, as presented in the response to the bidding documents, is the lowest responsible bidder.

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

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them. Notwithstanding the foregoing, the Construction Manager acknowledges that Owner is a public, tax exempt entity and the Construction Manager shall work with the Owner to avoid the payment of taxes when possible.

§ 3.1.13 Compliance with Laws

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

§ 3.1.14 Other Preconstruction Services

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

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

Per RFQ/P Documents issued to date – Exhibit C

§ 3.2 Guaranteed Maximum Price Proposal

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

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

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

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

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency in an amount to be accepted and approved by the Owner, for the Construction Manager's use to cover errors and omissions from the 100% Construction Document pricing with prior authorization from the Owner.

- .1 The Contractor's Contingency portion of Contractor's Soft Costs and Fee is a lump sum provided within the Guaranteed Maximum Price for the Contractor's use during the Preconstruction Phase in protecting the Guaranteed Maximum Price from estimating errors and the market conditions at the time of Subcontractor bidding. As it is not provided for the Contractor's unlimited access and use during the Construction Phase, it shall be reduced to the lump sum obtained by using the percentage shown for this purpose at the Construction Phase in Exhibit C, or if no percentage is shown therein, to zero (0) at Notice to Proceed with the Work.
- .2 Under no circumstances is the Contractor's Contingency to be used by the Owner for increases in the scope, quality or quantity of the Work; nor by the Contractor for correcting nonconforming Work; Work items discovered during the Construction Phase not to be coordinated among the Subcontractor's scope of work due to an oversight of the Contractor: or similar Contractor's errors or omissions.
- .3 Contractor's access to the Contractor's Contingency shall be approved in writing on a per instance basis by the Owner as being in compliance with the above requirements, such approval not to be unreasonably withheld.

§ 3.2.5 The Construction Manager and applicable subcontractors as deemed appropriate by the Owner and Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal or portions thereof. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both that are acceptable to the Owner. Failure by the Owner or Architect to discover inconsistencies or inaccuracies in the information shall not in any way excuse the Construction Manager from completing the project at or below the Guaranteed Maximum Price identified in this Agreement.

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

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

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

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed. Notwithstanding the foregoing, Construction Manager acknowledges that Owner is a public, tax exempt entity and Construction Manager shall work with Owner to avoid the payment of taxes when possible.

§ 3.2.10 The Guaranteed Maximum Price ("GMP") shall be calculated based on the following allowable costs and markups:

Direct scope of work at actual costs.

General Conditions at direct cost with a Not-to-Exceed value within the GMP. The only changes to the General Conditions will be within an authorized Change Order executed and issued in accordance with the Contract Documents.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date the Construction Manager receives a construction building permit from the applicable jurisdictional authority and a written Notice to Proceed with the Work as stated in Article 3.3.1.2.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price ("GMP") proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

§ 3.3.2 Administration

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

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

§ 3.3.2.3 Monthly Report

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

§ 3.3.2.4 Daily Logs

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

§ 3.3.2.5 Cost Control

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

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

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

§ 4.1.2 Not Used

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

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During 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 reasonable diligence and critical judgment in the review of such information, reports, surveys, drawings and tests prior to proceeding with any work or activity based upon the same and shall exercise proper precautions relating to the safe performance of the Work.

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

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

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

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

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

§ 4.2 Owner's Designated Representative

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

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

§ 4.3 Architect

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

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

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

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

Fee for preconstruction services per RFQ/P response included in Exhibit C

§ 5.1.2

(Paragraphs deleted)

Not Used

(Table deleted)

§ 5.1.2.1 Not Used.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within twelve (12) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services may be equitably adjusted.

(Paragraphs deleted)

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

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

§ 6.1.2 The Construction Manager's Fee:

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

Construction Manager's Fee for this Contract is 3.95% of the Cost of the Work at the time of proposal. The Construction Manager's Fee shall be calculated as a straight multiplication on the total contract value less fee.

Fee will be invoiced at a percent complete of the cost of work in place.

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

For additive changes to the Guaranteed Maximum Price as established in the Guaranteed Maximum Price Amendment, Construction Manager's Fee will be increased by a percentage of the cost of the change that is equivalent to the percentage of the fee against the Guaranteed Maximum Price, pursuant to the provisions of the Article 7 of the General Conditions.

For deductive changes to the Guaranteed Maximum Price as established in the Guaranteed Maximum Price Amendment, Construction Manager's Fee will be decreased by a percentage of the cost of the change that is equivalent to the percentage of the fee against the Guaranteed Maximum Price, pursuant to the provisions of Article 7 of the General Conditions.

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

The maximum percentage for subcontractor change order markup above actual cost for labor, equipment and materials is 3.95% for the Construction Manager and 10% for subcontractors, per Construction Manager's proposal. This includes Construction Manager, subcontractor and material vendors/suppliers per Exhibit C

§ 6.1.5 Rental rates for Construction Manager-owned equipment has been provided in Exhibit C.

§ 6.1.6 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

Refer to General Conditions AIA A201-2017

§ 6.1.7 Other:

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

N/A

§ 6.2 Guaranteed Maximum Price

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

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

§ 6.3 Changes in the Work

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

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

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

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

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

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

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

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

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily and actually incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

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

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

§ 7.2 Labor Costs

§ 7.2.1 Wages and hourly rates or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops. This direct work shall be based on actual costs to the Construction Manager including such benefits, if any, as may be payable to the construction worker with respect thereto. Temporary labor will be invoiced to the project at cost with receipts from the temporary labor service provider.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, and for Construction Manager's project management and reasonable administrative support whether performed at the site or in the Construction Manager's offices with the Owner's prior approval, all at the fixed rates as provided in the not-to-exceed general conditions fee proposal in Exhibit C.

(Paragraphs deleted)

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

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

§ 7.2.5 The mutually agreed upon, hourly rates (by position) for labor costs, are provided in Exhibit C in this Agreement. These rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.2.6 It is expressly agreed that bonuses, profit sharing, incentive compensation, and any other discretionary payments paid to anyone hired by the Construction Manager or paid to a Subcontractor or vendor shall *NOT* be included in Labor Costs.

§ 7.3 Subcontract Costs

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

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

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

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

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

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value. Small tools, as reasonably required, will be a direct cost to the project with a receipt of purchase provided as backup in the pay applications. Any tools purchased as a direct cost of the project in working order at project completion, shall become the property of the Owner. Consumables such as drill bits, saw blades, powder actuated loads, winter fuel fittings and hose, oxygen, acetylene, etc. will be a direct cost to the Project at a rate at least ten percent (10%) less than any available rental source (see attached Contractor Standardized Rental Rates). Tool rent is only to be charged for the time the tool is in use and reasonably required on the job site. Contractor tool rental is subject to Owner audit at any time.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment rented shall be competitive and subject to the Owner's prior approval and shall be at or below rental rates consistent with those prevailing in the area. Provided, however, with respect to rental of Construction Manager's own equipment, such rental rates shall not exceed one hundred percent (100%) of the current A.E.D Manual charges, without the Owner's prior approval, and in no event shall the total of such rental charges exceed the depreciated fair market value of the piece of equipment when first utilized on the job. The total rental cost of any such equipment may not exceed the purchase price of any comparable item. Rental rates for equipment are provided in Exhibit C.

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

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

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

§ 7.6 Miscellaneous Costs

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

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

. Insurance costs shall be included at the rates provide with the Construction Manager's proposal and set in Exhibit C.

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

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

§ 7.6.3 Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay. Owner will pay (or cause to be waived) the fee for the building permit directly. Construction Manager shall be responsible for all other permits and associated fees and assessments.

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

(Paragraphs deleted)

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

§ 7.6.7 Costs of document reproductions and delivery charges.

(Paragraphs deleted)

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

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

§ 7.7 Other Costs and Emergencies

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

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

(Paragraph deleted)

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

§ 7.8 Related Party Transactions

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

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

§ 7.9 Costs Not To Be Reimbursed

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

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .9 Costs for services incurred during the Preconstruction Phase.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner.

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

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

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

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

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

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be maintained in accordance with generally accepted accounting principles, consistently applied, and shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law. Failure to provide such access within ten (10) days of request therefore shall constitute a material default hereunder.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1

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

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

The Construction Manager shall, during the last week of each month, meet with the Architect, Project Manager and Owner, and other parties designated by the Owner, to review and approve an itemized draft indicating the total estimated value of the Work completed through the end of the current calendar month including the value of all material and equipment suitable stored at the jobsite or other approved location. Such draft shall set for the dollar amounts of completion of each part of the Work, including a prorated share of the Construction Manager's Fee less applicable retention. The approved draft will then be formalized into an Application for Payment and will be submitted to the Owner for processing.

§ 11.1.3

After its receipt of an Application for Payment, Owner shall work diligently to complete the process for payment..

The process for Applications for Payment is as follows:

1. Construction Manager will submit invoices directly to the Owner's Representative. The Construction Manager is instructed to send Applications for Payment to the Owner's Representative..
2. All Applications for Payment will be submitted and processed once per month; **Applications for Payment will be required to be received to the Owner by the 6th of each month for the previous calendar month.** *Note: Applications for Payment received on the 7th will not be processed until the 6th of the following month. No exceptions. Also, keep in mind that Applications for Payment received before or on the 30th for example will not be processed until the 6th of the following month. It will be beneficial to issue Applications for Payment close to the 6th as that will minimize the time from submittal to receipt of payment.*
3. Applications for Payment are reviewed by the Owner and the Owner's Owners Representative for accuracy and contractual compliance.

(Paragraph deleted)

Although this cannot be guaranteed, payments are anticipated to be issued to the Construction Manager within forty-five (45) days after the Owner's Representative submits a reviewed and correct pay application to the Owner.

§ 11.1.4 With each Application for Payment, the Construction Manager and subcontractors shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, subcontractor lien waivers, proof of payment to subcontractors for amounts submitted under previous pay applications, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.

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

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

§ 11.1.5.2 The allocation of the GMP shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

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

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

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

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

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

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

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017; and/or other amounts about which there is a legitimate dispute as to whether payment is due.
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;

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

§ 11.1.8 Retainage

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

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

5%

§ 11.1.8.1.1 The following items are not subject to retainage:

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

NA

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

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

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

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

Upon approved application for final retainage release, the Owner shall advertise a notice of final settlement per current state statutes. This process may take several weeks from receiving an approved application for final retainage and payment of retainage by Owner.

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

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

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

§ 11.2 Final Payment

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

Init.

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- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment;
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.;
- .4 Final lien waivers have been issued by the Construction Manager and all Subcontractors; and
5. **Notice of final payment has been advertised pursuant to Colorado law and all claims. If any, have been resolved to the Owner's satisfaction**

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

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

§ 11.2.2.2 Within seven (7) days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201–2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than sixty (60) days after the issuance of the Architect's final Certificate for Payment, or as follows:

NA

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

§ 11.3 Interest

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

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

0 % zero

ARTICLE 12 DISPUTE RESOLUTION

(Paragraph deleted)

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§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017.

(Paragraphs deleted)

§ 12.2 Binding Dispute Resolution

For any Claim the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

☐ Arbitration pursuant to Article 15 of AIA Document A201–2017

☒ Litigation in the District Court of Eagle County, Colorado

☐ Other: *(Specify)*

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

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the GMP Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the GMP, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than thirty (30) days' written notice to the Owner.

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

§ 13.1.3 Prior to the execution of the GMP Amendment, the Owner may terminate this Agreement upon not less than seven (7) 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 (7) days' written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

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

(Paragraphs deleted)

§ 13.2 Termination or Suspension Following Execution of the GMP Amendment

§ 13.2.1 Termination

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

§ 13.2.2 Termination by the Owner for Cause

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

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

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

(Paragraph deleted)

§ 13.2.3 Termination by the Owner for Convenience

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

(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner's convenience.)

A proportionate amount of the work completed as agreed to by the Architect and Owner.

§ 13.3 Suspension

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

ARTICLE 14 MISCELLANEOUS PROVISIONS

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

§ 14.2 Successors and Assigns

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

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

§ 14.3 Insurance and Bonds

(Paragraphs deleted)

§14.3.1 Refer to Exhibit B

No Work will be conducted on the Project site until a certificate of insurance on a form acceptable to Owner has been submitted certifying that the Construction Manager and each subcontractor has insurance that complies with the specific insurance and indemnity requirements listed in this section 14.3. Such certificates shall contain a statement that the policies certified therein cannot be cancelled, materially modified, or allowed to expire without providing thirty (30) days' prior written notice to the Owner. Construction Manager is also responsible to verify that any Design/Build subcontractors (any subcontractor providing engineered drawings for review and approval), including but not limited to joist manufacturers, fire alarm subcontractors, fire sprinkler subcontractors, security subcontractors, landscape irrigation engineers, and precast concrete subcontractors, carry the following Professional Errors and Omissions Insurance: Professional Liability Insurance (Errors and Omissions), covering the services provided under this Agreement, including contractual liability insurance against the liability assumed in this Agreement, as is acceptable to and approved by the Owner. The costs and benefits of Professional Liability Insurance for design build subcontractors is to be reviewed with

the project team at the design development phase of the project at which time it will be confirmed which Design/Build subcontractors will be required to carry Professional Liability Insurance in the amount specified in the Project RFQ/P or otherwise specified in writing by the Owner in the Contract Documents (All deductibles to be paid by Design/Build Subcontractor). The insurance provided must be primary to any insurance coverage carried by Owner.

(Paragraphs deleted)

(Table deleted)

§ 14.5 Other provisions:

§ 14.5.1 Any written notices hereunder directed to Owner, the Owner's Representative or the Architect may be served to the Owner, Owner's Representative or the Architect by the means stated in 11.5.2 at:

Owner:
Town of Eagle
200 Broadway
Eagle, CO 81631

Owner's Representative:
Dynamic Program Management
Post Office Box 726
Eagle, CO 81631

Architect:
OLC Architecture
2000 Lawrence Street
Denver, CO 80205

Any notices directed hereunder to Construction Manager may be served on its Project Manager, Dynamic Program Management in accordance with the requirements of Section 14.5.2.

§ 14.5.2 Notice: All notices or other communications required or permitted hereunder shall be in writing, and shall be sent first class U.S. mail, postage prepaid.

§ 14.5.3 Construction Manager shall provide staffing at or exceeding the levels proposed during the Request for Qualifications and Proposal process and shall not change any personnel involved with the project or associated levels of commitment without prior written approval by the Owner.

§ 14.5.4 Staff Commitment: The proposed staff including Construction Manager's Project Manager, Diego Rodriguez, General Superintendent, Elmer Waldschmidt and Superintendent, Greg Lehew will be committed to the project for the duration and will not be reassigned without the Owner's prior written approval.

§ 14.5.5 The Construction Manager will work in an "Open Book" and "collaborative process" with the entire team throughout the duration of the Project.

§ 14.5.6 Allowances for direct work included within the GMP will include all Labor, Material and Equipment, taxes and subcontractor's fees. All Allowances shall be substantiated with documentation from contractors, subcontractors and sub-subcontractor including invoices for payment from material suppliers if requested by the Owner's Representative. Reconciliation of Allowances shall recognize appropriate adjustments to the Fee, however will not allow for General Conditions adjustments.

§ 14.5.7 The Construction Manager represents that he (1) has sufficient knowledge and expertise to construct the Work in accordance with all codes and regulations applicable to its performance of the Work; (2) has reviewed, and has general knowledge of the site; (3) has reviewed and has found sufficient for construction of the Work in accordance with the Contract Documents. The Construction Manager represents and warrants that it can and will complete the Work for the Contract Sum identified in this agreement, and that no sums additional to the Contract Sum are required for Construction Manager's completion of the Work as identified in this agreement.

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

§ 14.5.9 Both parties acknowledge having had the opportunity to participate in the drafting of this Agreement. The Agreement shall not be construed against either party based upon authorship.

ARTICLE 15 SCOPE OF THE AGREEMENT

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

§ 15.2 The following documents comprise the Agreement:

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

[]

[] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
Exhibit C	RFQ/P Documents	8/14/2023	9
	JHL RFQ Response	9/1/2023	49
	RFP	9/8/2023	6
	JHL Fee / GC Proposal	9/15/2023	8

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

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

OWNER *(Signature)*

Scott Turnipseed, Mayor

Town of Eagle

(Printed name and title)

CONSTRUCTION MANAGER *(Signature)*

Ben Steller, President
JHL Constructors

(Printed name and title)



Init.
/

Additions and Deletions Report for

AIA® Document A133® – 2019

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:19:28 ET on 03/05/2024.

PAGE 1

AGREEMENT made as of the 24th day of October in the year 2023

...

Town of Eagle
200 Broadway
Eagle, CO 81631

...

JHL Constructors
9100 E. Panorama Drive
Suite 300
Englewood, CO 80112

...

Eagle Pool Replacement Project
1700 Bull Pasture Road
Eagle, CO 81631

...

OLC Architecture
2000 Lawrence Street
Denver, CO 80205

PAGE 2

EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT~~AMENDMENT~~- **TBD**

PAGE 1

Per CM/GC RFQ/P documents issued to date included in Exhibit C

.

PAGE 2

Per CM/GC RFQ/P documents issued to date included in Exhibit C

PAGE 3

Per CM/GC RFQ/P documents issued to date included in Exhibit C

...

Per Schedule issued with RFQ/P documents included in Exhibit C

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Per Schedule issued with RFQ/P documents included in Exhibit C

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Per Schedule issued with RFQ/P documents included in Exhibit C

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Per Schedule issued with RFQ/P documents included in Exhibit C

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Per Schedule issued with RFQ/P documents included in Exhibit C

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Per RFQ/P documents included in Exhibit C

...

Per RFQ/P documents included in Exhibit C

...

Melissa Daruna
200 Broadway
Eagle, CO 81631
PAGE 4

Wiss Janney Elstner
3609 S Wadsworth Blvd
Lakewood, CO 80235

...

Included in the Architect's scope of work

...

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

Dynamic Program Management, Owner's Representative
Post Office Box 726
Eagle, CO 81631

Surveyor – Marcin Engineering

Commissioning Agent – TBD

...

Bob McDonald
OLC Architecture
2000 Lawrence Street
Denver, CO 80205
PAGE 5

Adam Fernan
JHL Constructors
9100 E. Panorama Drive
Suite 300
Englewood, CO 80112

...

N/A

...

Refer to Section 3.1.11.2

...

N/A

§ 1.2 ~~The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.~~Not Used.

...

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's ~~interests~~ interests and as is consistent with reasonable professional skill and care and the orderly progress of the Project. All such time periods and deadlines are of the essence. The Construction Manager warrants that the services shall be performed in a good and workmanlike manner and shall be suitable and fit for the purposes for which they are intended. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

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

§ 2.3.1 The parties expressly acknowledge that the General Conditions are set forth in AIA Document A201™-2017, General Conditions of the Contract for Construction, as amended and supplemented by Owner, adopted by the parties the date hereof and referred to herein as "A201-2017". Where reference is made in this Agreement to a provision of A201-2017, or other Contract Document, the reference refers to that provision as amended or supplemented by the Owner. For the Preconstruction Phase, A201-2017 shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and

Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

...

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project. The Construction Manager is expected to be familiar with local building codes and requirements, and to bring to the Owner's and Architect's attention any discrepancy or compliance issue Construction Manager suspects or becomes aware of during the course of the Project.

...

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

For any Work that is specified as design build systems by the Architect the Construction Manager shall ascertain that its subcontractors' drawings and specifications are in accordance with all applicable law.

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~~When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Project Schedule is attached hereto as Exhibit C and shall not be modified without prior authorization of the Owner.~~ The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

...

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

§ 3.1.6.3 ~~If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.~~Not Used.

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The Construction Manager shall establish a process, to be reviewed and approved by the Owner, to qualify a list of local subcontractors, and will use its commercially reasonable best efforts to provide those subcontractors opportunities to bid on Work associated with the Project. As working drawings and specifications are completed, the Construction Manager shall establish bidding schedules and conduct pre-bid conferences to familiarize bidders with bidding documents, management techniques and any special systems, materials or methods. Construction Manager shall prepare scope packages for each trade which clearly identify the bid scope, including general conditions items such as cleanup and safety. The Construction Manager shall review scope packages with the Owner and Architect prior to issuing same to subcontractors. For those trades in which the Construction Manager has the qualified ability to self-perform the work, bids from the Construction Manager for self-performed work must be submitted to the Owner, Owner's Representative and Architect a minimum of 24 hours prior to bid deadline for subcontractors to be considered for award. The Construction Manager will analyze all bids and prepare; (1) a bid matrix and scoring method (approved in advance by the Owner), (2) written bid analysis, (3) review bids and bid analysis with the Owner and Architect, (4) make recommendations for contract awards, and (5) award subcontracts.

The subcontractor selected for an award will be the subcontractor whose bid, as presented in the response to the bidding documents, is the lowest responsible bidder.

...

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them. Notwithstanding the foregoing, the Construction Manager acknowledges that Owner is a public, tax exempt entity and the Construction Manager shall work with the Owner to avoid the payment of taxes when possible.

...

Per RFQ/P Documents issued to date – Exhibit C

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- .5** A date by which the Owner must accept the Guaranteed Maximum Price.~~Price, mutually agreed to by the Owner and Construction Manager.~~

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order in an amount to be accepted and approved by the Owner, for the Construction Manager's use to cover errors and omissions from the 100% Construction Document pricing with prior authorization from the Owner.

- .1** The Contractor's Contingency portion of Contractor's Soft Costs and Fee is a lump sum provided within the Guaranteed Maximum Price for the Contractor's use during the Preconstruction Phase in protecting the Guaranteed Maximum Price from estimating errors and the market conditions at the time of Subcontractor bidding. As it is not provided for the Contractor's unlimited access and use during the Construction Phase, it shall be reduced to the lump sum obtained by using the percentage shown for this

purpose at the Construction Phase in Exhibit C, or if no percentage is shown therein, to zero (0) at Notice to Proceed with the Work.

- .2 Under no circumstances is the Contractor's Contingency to be used by the Owner for increases in the scope, quality or quantity of the Work; nor by the Contractor for correcting nonconforming Work; Work items discovered during the Construction Phase not to be coordinated among the Subcontractor's scope of work due to an oversight of the Contractor; or similar Contractor's errors or omissions.
- .3 Contractor's access to the Contractor's Contingency shall be approved in writing on a per instance basis by the Owner as being in compliance with the above requirements, such approval not to be unreasonably withheld.

§ 3.2.5 The Construction Manager and applicable subcontractors as deemed appropriate by the Owner and Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal, proposal or portions thereof. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both or both that are acceptable to the Owner. Failure by the Owner or Architect to discover inconsistencies or inaccuracies in the information shall not in any way excuse the Construction Manager from completing the project at or below the Guaranteed Maximum Price identified in this Agreement.

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

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§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed. Notwithstanding the foregoing, Construction Manager acknowledges that Owner is a public, tax exempt entity and Construction Manager shall work with Owner to avoid the payment of taxes when possible.

§ 3.2.10 The Guaranteed Maximum Price ("GMP") shall be calculated based on the following allowable costs and markups:

Direct scope of work at actual costs.

General Conditions at direct cost with a Not-to-Exceed value within the GMP. The only changes to the General Conditions will be within an authorized Change Order executed and issued in accordance with the Contract Documents.

...

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase the Construction Manager receives a construction building permit from the applicable jurisdictional authority and a written Notice to Proceed with the Work as stated in Article 3.3.1.2.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price ("GMP") proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager,

and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

PAGE 11

~~§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.~~**Not Used**

...

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise reasonable diligence and critical judgment in the review of such information, reports, surveys, drawings and tests prior to proceeding with any work or activity based upon the same and shall exercise proper precautions relating to the safe performance of the Work.

...

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

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

...

Fee for preconstruction services per RFQ/P response included in Exhibit C

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

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

Not Used

Individual or Position

Rate

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

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within twelve (12) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall may be equitably adjusted.

§ 5.2 Payments

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

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

—%

...

Construction Manager's Fee for this Contract is 3.95% of the Cost of the Work at the time of proposal. The Construction Manager's Fee shall be calculated as a straight multiplication on the total contract value less fee.

Fee will be invoiced at a percent complete of the cost of work in place.

PAGE 13

For additive changes to the Guaranteed Maximum Price as established in the Guaranteed Maximum Price Amendment, Construction Manager's Fee will be increased by a percentage of the cost of the change that is equivalent to the percentage of the fee against the Guaranteed Maximum Price, pursuant to the provisions of the Article 7 of the General Conditions.

For deductive changes to the Guaranteed Maximum Price as established in the Guaranteed Maximum Price Amendment, Construction Manager's Fee will be decreased by a percentage of the cost of the change that is equivalent to the percentage of the fee against the Guaranteed Maximum Price, pursuant to the provisions of Article 7 of the General Conditions.

...

The maximum percentage for subcontractor change order markup above actual cost for labor, equipment and materials is 3.95% for the Construction Manager and 10% for subcontractors, per Construction Manager's proposal. This includes Construction Manager, subcontractor and material vendors/suppliers per Exhibit C

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed —percent (—%) of the standard rental rate paid at the place of the Project. has been provided in Exhibit C.

...

Refer to General Conditions AIA A201-2017

...

N/A

...

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

...

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

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

PAGE 14

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

...

§ 7.1.1 The term Cost of the Work shall mean costs necessarily and actually incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

...

§ 7.2.1 Wages and hourly rates or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops. This direct work shall be based on actual costs to the Construction Manager including such benefits, if any, as may be payable to the construction worker with respect thereto. Temporary labor will be invoiced to the project at cost with receipts from the temporary labor service provider.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, ~~with the Owner's prior approval and for Construction Manager's project management and reasonable administrative support whether performed at the site or in the Construction Manager's offices with the Owner's prior approval,~~ all at the fixed rates as provided in the not-to-exceed general conditions fee proposal in Exhibit C.

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

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

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§ 7.2.5 ~~If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the~~ The mutually agreed upon, hourly rates (by position) for labor costs, are provided in Exhibit C in this Agreement. These rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.2.6 It is expressly agreed that bonuses, profit sharing, incentive compensation, and any other discretionary payments paid to anyone hired by the Construction Manager or paid to a Subcontractor or vendor shall NOT be included in Labor Costs.

...

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts ~~and properly entered into under~~ this Agreement.

...

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

...

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value. Small tools, as reasonably required, will be a direct cost to the project with a receipt of purchase provided as backup in the pay applications. Any tools purchased as a direct cost of the project in working order at project completion, shall become the property of the Owner. Consumables such as drill bits, saw blades, powder actuated loads, winter fuel fittings and hose, oxygen, acetylene, etc. will be a direct cost to the Project at a rate at least ten percent (10%) less than any available rental source (see attached Contractor Standardized Rental Rates). Tool rent is only to be charged for the time the tool is in use and reasonably required on the job site. Contractor tool rental is subject to Owner audit at any time.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. ~~Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval.~~ rented shall be competitive and subject to the Owner's prior approval and shall be at or below rental rates consistent with those prevailing in the area. Provided, however, with respect to rental of Construction Manager's own equipment, such rental rates shall not exceed one hundred percent (100%) of the current A.E.D Manual charges, without the Owner's prior approval, and in no event shall the total of such rental charges exceed the depreciated fair market value of the piece of equipment when first utilized on the job. The total rental cost of any such equipment may not exceed the purchase price of any comparable item. Rental rates for equipment are provided in Exhibit C.

...

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

PAGE 16

. Insurance costs shall be included at the rates provide with the Construction Manager's proposal and set in Exhibit C.

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

§ 7.6.3 Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay. Owner will pay (or cause to be waived) the fee for the building permit directly. Construction Manager shall be responsible for all other permits and associated fees and assessments.

...

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

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

...

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

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

...

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

PAGE 17

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

PAGE 18

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 maintained in accordance with generally accepted accounting principles, consistently applied, and shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment,

or for such longer period as may be required by law. Failure to provide such access within ten (10) days of request therefore shall constitute a material default hereunder.

...

The Construction Manager shall, during the last week of each month, meet with the Architect, Project Manager and Owner, and other parties designated by the Owner, to review and approve an itemized draft indicating the total estimated value of the Work completed through the end of the current calendar month including the value of all material and equipment suitable stored at the jobsite or other approved location. Such draft shall set for the dollar amounts of completion of each part of the Work, including a prorated share of the Construction Manager's Fee less applicable retention. The approved draft will then be formalized into an Application for Payment and will be submitted to the Owner for processing.

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

After its receipt of an Application for Payment, Owner shall work diligently to complete the process for payment..

The process for Applications for Payment is as follows:

1. Construction Manager will submit invoices directly to the Owner's Representative. The Construction Manager is instructed to send Applications for Payment to the Owner's Representative..
2. All Applications for Payment will be submitted and processed once per month; **Applications for Payment will be required to be received to the Owner by the 6th of each month for the previous calendar month.** *Note: Applications for Payment received on the 7th will not be processed until the 6th of the following month. No exceptions. Also, keep in mind that Applications for Payment received before or on the 30th for example will not be processed until the 6th of the following month. It will be beneficial to issue Applications for Payment close to the 6th as that will minimize the time from submittal to receipt of payment.*
3. Applications for Payment are reviewed by the Owner and the Owner's Owners Representative for accuracy and contractual compliance.

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

Although this cannot be guaranteed, payments are anticipated to be issued to the Construction Manager within forty-five (45) days after the Owner's Representative submits a reviewed and correct pay application to the Owner.

§ 11.1.4 With each Application for Payment, the Construction Manager and subcontractors shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, subcontractor lien waivers, proof of payment to subcontractors for amounts submitted under previous pay applications, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.

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

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

...

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

for Payment, by (b) the share of the ~~Guaranteed Maximum Price-GMP~~ allocated to that portion of the Work in the schedule of values.

...

- .1 That portion of the ~~Guaranteed Maximum Price-GMP~~ 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-GMP~~ allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the ~~Guaranteed Maximum Price-GMP~~ properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

...

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

...

- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201-2017; and/or other amounts about which there is a legitimate dispute as to whether payment is due.

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5%

...

NA

...

§ 11.1.9 ~~If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of AIA Document A201-2017.~~ Upon approved application for final retainage release, the Owner shall advertise a notice of final settlement per current state statutes. This process may take several weeks from receiving an approved application for final retainage and payment of retainage by Owner.

...

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

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- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; ~~and~~
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section ~~11.2.2.2; 11.2.2.2.;~~
- .4 Final lien waivers have been issued by the Construction Manager and all Subcontractors; and
- 5. Notice of final payment has been advertised pursuant to Colorado law and all claims. If any, have been resolved to the Owner's satisfaction**

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

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within ~~40~~ ten (10) days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven (7) days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201-2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201-2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

...

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than ~~30~~ sixty (60) days after the issuance of the Architect's final Certificate for Payment, or as follows:

NA

§ 11.2.4 ~~If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager. The Architect will not issue the final Certificate for Payment and final payment will not be made until the time of final settlement is established by the Owner and shall thereafter be advertised by two (2) publications of notice, the last of which shall appear at least ten (10) days prior to the time of final settlement as required pursuant to C.R.S. § 38-26-107. The Owner shall withhold from all payments to Construction Manager sufficient funds to insure the payment of all claims filed by any person that has furnished labor, materials, sustenance, or other supplies used or consumed by Construction Manager or a subcontractor in or about the performance of the Work, or that supplies laborers, rental machinery, tools, or equipment to the extent used in the prosecution of the Work whose claim therefore has not been paid by Construction Manager or the subcontractor, all in accordance with C.R.S. § 38-26-107.~~

...

0 % zero

...

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201-2017. ~~However, for Claims arising from or relating to the~~

Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

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

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

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[] ~~Litigation in a court of competent jurisdiction~~ **X** [] Litigation in the District Court of Eagle County, Colorado

...

§ 13.1

Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the ~~Guaranteed Maximum Price, GMP~~, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than ~~seven~~ thirty (30) days' written notice to the Owner.

...

§ 13.1.3 Prior to the execution of the ~~Guaranteed Maximum Price~~ GMP Amendment, the Owner may terminate this Agreement upon not less than seven (7) 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 (7) days' written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

...

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

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

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all

such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

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

§ 13.2

Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

...

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

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

...

[A proportionate amount of the work completed as agreed to by the Architect and Owner.](#)

...

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

...

§ 14.3.1 Preconstruction Phase

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

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

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

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

~~§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than —(\$ —) each accident, —(\$ —) each employee, and —(\$ —) policy limit.~~

~~§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than —(\$ —) per claim and —(\$ —) in the aggregate.~~

~~§ 14.3.1.6 Other Insurance~~

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

~~§14.3.1 Refer to Exhibit B~~

No Work will be conducted on the Project site until a certificate of insurance on a form acceptable to Owner has been submitted certifying that the Construction Manager and each subcontractor has insurance that complies with the specific insurance and indemnity requirements listed in this section 14.3. Such certificates shall contain a statement that the policies certified therein cannot be cancelled, materially modified, or allowed to expire without providing thirty (30) days' prior written notice to the Owner. Construction Manager is also responsible to verify that any Design/Build subcontractors (any subcontractor providing engineered drawings for review and approval), including but not limited to joist manufacturers, fire alarm subcontractors, fire sprinkler subcontractors, security subcontractors, landscape irrigation engineers, and precast concrete subcontractors, carry the following Professional Errors and Omissions Insurance: Professional Liability Insurance (Errors and Omissions), covering the services provided under this Agreement, including contractual liability insurance against the liability assumed in this Agreement, as is acceptable to and approved by the Owner. The costs and benefits of Professional Liability Insurance for design build subcontractors is to be reviewed with the project team at the design development phase of the project at which time it will be confirmed which Design/Build subcontractors will be required to carry Professional Liability Insurance in the amount specified in the Project RFQ/P or otherwise specified in writing by the Owner in the Contract Documents (All deductibles to be paid by Design/Build Subcontractor). The insurance provided must be primary to any insurance coverage carried by Owner.

Coverage

Limits

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

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

§ 14.3.2 Construction Phase

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

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

§ 14.4 Notice in electronic format, pursuant to Article 1 of AIA Document A201 2017, may be given in accordance with AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203 2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 14.5.1 Any written notices hereunder directed to Owner, the Owner's Representative or the Architect may be served to the Owner, Owner's Representative or the Architect by the means stated in 11.5.2 at:

Owner:
Town of Eagle
200 Broadway
Eagle, CO 81631

Owner's Representative:
Dynamic Program Management
Post Office Box 726
Eagle, CO 81631

Architect:
OLC Architecture
2000 Lawrence Street
Denver, CO 80205

Any notices directed hereunder to Construction Manager may be served on its Project Manager, Dynamic Program Management in accordance with the requirements of Section 14.5.2.

§ 14.5.2 Notice: All notices or other communications required or permitted hereunder shall be in writing, and shall be sent first class U.S. mail, postage prepaid.

§ 14.5.3 Construction Manager shall provide staffing at or exceeding the levels proposed during the Request for Qualifications and Proposal process and shall not change any personnel involved with the project or associated levels of commitment without prior written approval by the Owner.

§ 14.5.4 Staff Commitment: The proposed staff including Construction Manager's Project Manager, Diego Rodriguez, General Superintendent, Elmer Waldschmidt and Superintendent, Greg Lehew will be committed to the project for the duration and will not be reassigned without the Owner's prior written approval.

§ 14.5.5 The Construction Manager will work in an "Open Book" and "collaborative process" with the entire team throughout the duration of the Project.

§ 14.5.6 Allowances for direct work included within the GMP will include all Labor, Material and Equipment, taxes and subcontractor's fees. All Allowances shall be substantiated with documentation from contractors, subcontractors and sub-subcontractor including invoices for payment from material suppliers if requested by the Owner's Representative. Reconciliation of Allowances shall recognize appropriate adjustments to the Fee, however will not allow for General Conditions adjustments.

§ 14.5.7 The Construction Manager represents that he (1) has sufficient knowledge and expertise to construct the Work in accordance with all codes and regulations applicable to its performance of the Work; (2) has reviewed, and has general knowledge of the site; (3) has reviewed and has found sufficient for construction of the Work in accordance with the Contract Documents The Construction Manager represents and warrants that it can and will complete the Work for the Contract Sum identified in this agreement, and that no sums additional to the Contract Sum are required for Construction Manager's completion of the Work as identified in this agreement.

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

§ 14.5.9 Both parties acknowledge having had the opportunity to participate in the drafting of this Agreement. The Agreement shall not be construed against either party based upon authorship.

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

...

- .4 AIA Document A201™–2017, General Conditions of the Contract for Construction as amended
.5 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203–2013 incorporated into this Agreement.)

...

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

...

Exhibit C

<u>RFQ/P Documents</u>	<u>8/14/2023</u>	<u>9</u>
<u>JHL RFQ Response</u>	<u>9/1/2023</u>	<u>49</u>
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Scott Turnipseed, Mayor

Town of Eagle

Ben Steller, President

JHL Constructors

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Colleen Kaneda, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 16:19:28 ET on 03/05/2024 under Order No. 4104246640 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A133™ – 2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)



AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

Eagle Pool Replacement Project
1700 Bull Pasture Rd
Eagle, CO 81631

THE OWNER:

(Name, legal status and address)

Town of Eagle
200 Broadway
Eagle, CO 81631

THE ARCHITECT:

(Name, legal status and address)

OLC Architecture
2000 Lawrence Street
Denver, CO 80205

TABLE OF ARTICLES

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ADDITIONS AND DELETIONS:

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

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

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

Init.

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(1816225076)

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, Modifications issued after execution of the Contract, and any exhibits. 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 as defined in section 1.1.1 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.

§ 1.2.4 In the event the Contractor discovers an error in the drawings, or a conflict between the drawings and specifications, the Contractor shall bring such error or conflict to the attention of the Architect and Owner's Representative as soon as reasonably possible. The Contractor shall await instructions from the Architect on how to proceed before proceeding with this work. Where a conflict occurs between or within standards, specifications and drawings, the more stringent or higher quality requirements shall apply. Addenda and modifications to the drawings and specifications take precedence over the original contract documents. Should there be a conflict within the specifications, or the drawings, or between the specifications and the drawings, the Owner shall decide which interpretation will provide the best installation and the Owner's decision shall be final.

§ 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 in or to the Instruments of Service.

§ 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 Town of Eagle. The Owner shall designate in writing a representative who shall have express authority, to the extent permitted by Colorado law and the Owner's policies and regulations, 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. Notwithstanding any provision of this Section 2.2.2, no change order shall be executed which increases the amount payable under the Contract without funds being appropriated therefor, or the Contractor has otherwise been given written assurances that lawful appropriations to cover the extra costs have been made.

§ 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. Unless the Contractor has actual knowledge to the contrary, 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. *If the Contractor becomes aware of any deficiency, inaccuracy or incompleteness of services and information furnished by Owner under this subsection 2.3.5., the Contractor shall promptly advise the Owner in writing of such inaccuracy or incompleteness.*

§ 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. . Nothing herein shall in any way limit the Owner's legal right to revoke acceptance of the Work at a later time, in accordance with applicable law.

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.

§ 3.1.4 The contractor shall comply with all applicable federal labor and state labor laws including without limitation those addressing employer obligations for publicly funded projects.

§ 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 architect or other design professional, unless otherwise specifically provided in the Contract Documents. If the Contractor performs any construction activity knowing it involves an error, inconsistency or omission in the Contract Documents without providing notice of such error, inconsistency or omission to the Architect, the Contractor shall assume responsibility for such construction activity and shall bear the costs attributable to any necessary correction.

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

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall 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, upon written request of the owner, correct such failure(s) without adjustment to the contract sum. In the event a correction that will make the owner whole is not possible, then 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 perform, supervise and direct the Work, using the Contractor's best skill and attention, which at a minimum, shall conform to industry standards for public facility construction in Colorado. 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. Work, materials, or equipment not conforming to these requirements, including substitutions not approved and authorized by the owner, 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.

§ 3.5.3 The Contractor further warrants that the construction processes and methods employed to perform the work shall be suitable for the results required and expected. If the Contractor proposes to use an unproved and untried method, process or product, the architect must be advised of the proposal in writing for purposes of discussion with the Owner. The Owner may permit experimentation, but may require special guarantees of the Contractor to cover the work produced by any new and untried process, method or product.

§ 3.5.4 The Contractor further warrants that it has full title to all equipment, components and other items conveyed to the Owner under the terms of this contract, that its transfer of such title to the Owner is rightful and that all such equipment, components and other items shall be transferred free and clear from all security interest, liens or encumbrances whatsoever. The Contractor agrees to warrant and defend such title against all persons claiming the whole or any part thereof at no cost to the Owner.

§ 3.5.5 The Contractor shall promptly repair, replace or otherwise correct any of its workmanship and any parts, materials, components, equipment or other items in the work which contain faults or defects, whether such failures are observed by the Owner, architect or Contractor before or after final completion. The Contractor shall bear all costs of correcting such work covered by the warranties.

§ 3.5.6 The Contractor shall further warrant, and shall ensure that all of its subcontractors and sub-subcontractors shall warrant, that all work executed under this contract shall be free from defects of materials and workmanship for a period of one (1) year from the date of substantial completion, except items of work completed after date of Substantial completion shall run for one year from the date of final payment to the Contractor. This warranty is a remedy available to the Owner in addition to claims the Owner may have arising out of work or materials found to be noncomplying, out of specification or otherwise in breach of this contract no matter when discovered. The above parties further agree they will, at their own expense, repair and replace all such defective work and all other work damaged thereby which becomes defective during the one year warranty period. Whenever guarantees or warranties are required by the specifications for a longer period than one (1) year, such period shall govern. Owner shall have the full benefit of longer warranties provided by particular subcontractors or other suppliers. Upon discovery of any warranty defect or defects under section 3.5.5, the Owner shall give written notice thereof to the Contractor. If, within ten (10) days after the mailing of such written notice by the Owner to the Contractor or its agent, requesting such repairs or replacement, the Contractor shall neglect to make, or undertake with due diligence to make the same, the Owner may make such repairs at the Contractor's expense; provided, however, that in the case of emergency and within the judgment of the Owner, delay would cause certain loss or damage, repairs or replacement may be made without notice being given to the Contractor, and the Contractor shall pay the cost thereof. The checking or cracking of walls, floors or ceilings, except hairline cracks from concrete shrinking which are cosmetic only, and the chipping or flaking of paint shall, during the first year after acceptance of the building, be deemed to be a defect covered by this warranty without proof of use of inferior materials, equipment or workmanship. Such defects shall not, in and if themselves, cause a duty to investigate for structural defects.

§ 3.5.7 Nothing herein shall be construed to establish a period of limitation with respect to any other obligation, which the Contractor might have under the contract documents. The establishment of the warranty periods set forth in Section 3.5.5 relates only to the specific obligations of the Contractor to correct known defects in the work, and has no relationship to the time within which its 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 its obligations and resulting damages other than specifically to correct known defects in the work which are discovered and called to the Contractor's attention during the warranty period.

§ 3.5.8 The Contractor at its own expense shall also repair or replace any damages to any equipment, facilities or other personal or real property owned or leased by the Owner which is damaged as a result of any such fault or defect or Contractor's performance of the Work, at no cost to the Owner.

§ 3.5.9 All subcontractors', manufacturers', and suppliers' warranties and guarantees, expressed or implied, for any part of the work and any materials used therein, shall be obtained and enforced by the Contractor for the benefit of the Owner whether or not these warranties have been assigned or otherwise transferred to the Owner. The Contractor shall assign or transfer such warranties and guarantees to the Owner if the Owner requests the Contractor to do so, but such transfer shall not affect the Contractor's obligation to enforce such warranties and guarantees.

§ 3.5.10 Remedies for breach of warranty are cumulative and in addition to any other remedy Owner may have for defective work or work not in compliance with the contract documents.

§ 3.5.11 The warranties and obligations set forth above shall not be limited by the provisions of § 12.2.

§ 3.6 Taxes

§ 3.6.1 The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect. The Owner is exempt from Colorado State Sales and Use Taxes on materials and equipment to be

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incorporated into the Work. Said taxes on materials incorporated into the work, or upon equipment or supplies expended and/or used to exhaustion in the course of the work, shall not be included in the Guaranteed Maximum Price or modifications to the same. The Owner's tax exempt number is 84-6000655.

§ 3.6.2 Prior to the purchase of any property to be incorporated into the Work, the Contractor shall ensure that the purchaser, including the Contractor and all subcontractors on the Project, apply to the Department of Revenue, State of Colorado, for an exemption (Form DR-172) to be used for all Work performed and completed under this Contract. All purchases for the Work subject to tax shall use the exemption from sales tax. Any costs, taxes or fines that are incurred as a result of a failure to comply with the requirements of this § 3.6.2 shall be paid by the Contractor.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by the Colorado Division of Fire Prevention & Control - Department of Fire Safety (the "Division"), or with a prequalified planning department certified by the Division pursuant to CRS 24-32-124(2)(a)(II), or other 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.

§ 3.7.2.1 Preference in employment of Colorado labor. The contractor shall comply with C.R.S. § 8-17-101 which states: "whenever any public works financed in whole or in part by funds of the state, counties, school districts, or municipalities of the state of Colorado are undertaken in this state, Colorado labor shall be employed to perform the work to the extent of not less than eighty percent of each type or class of labor in the several classifications of skilled and common labor employed on such project or public works. "Colorado labor" as used in this article means any person who is a resident of the state of Colorado, at the time of employment, without discrimination as to race, color, creed, sex, sexual orientation, marital status, national origin, ancestry, age, or religion except when sex or age is a bona fide occupational qualification."

§ 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, regardless of whether such work is in accordance with contract documents, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction. Codes and ordinances shall take full and complete precedence over anything contained in the contract documents, except where the contract documents require work or materials of higher standards than those required by codes and ordinances, in which case the contract documents shall govern. The Contractor shall promptly notify the Owner and Architect if the Contractor believes the Contract Documents require work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 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.

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

§ 3.8 Allowances

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

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; 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 qualified assistant superintendents 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.

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

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, immediately 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. The schedule shall indicate the start and completion of each of the elements on the schedules, and shall indicate the major dependencies among elements on the

schedule. The completion time shall be as specified in the Agreement. The schedule shall be revised when the completion time is revised by Change Order.

§ 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.

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

§ 3.13 Use of Site

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

§ 3.13.2 The site shall be kept clean and well organized at all times for purposes of safety, protection and care of project materials and equipment, as well as general aesthetics.

§ 3.13.3 The Contractor shall take reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to, all persons at the site and all property at the site and adjacent thereto. The contractor acknowledges that the work site may comprise buildings and areas that may be occupied during the performance of some portions of this contract.

§ 3.13.4 The Contractor shall notify all public utility companies 48 hours prior to the commencement of any work by it or its subcontractors in the vicinity of the utilities. No work shall commence until the utilities have been located and staked by the utility company or written consent from the Architect to proceed has been given to the contractor. If the

utility service must be interrupted, the Contractor shall notify the head of the local administrative services (i.e., town manager, mayor or town clerk, as applicable) and the utility users affected by the interruption. Such notice shall consist of publication in a local newspaper and/or announcement on local radio or television stations, whichever is most reasonably calculated to give notice to such utility users.

§ 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. The Contractor shall designate trash and debris areas where all building debris shall be put daily (these areas to be cleaned weekly). The work shall be reasonably cleaned daily. 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. The Contractor shall do the following special cleaning for all trades at completion of work: clean all glass, woodwork, painted and decorated work, hardware, tile work, fixtures, floors, windows, metal surfaces (leave the work perfectly clean). Under no circumstances shall the Owner's trash receptacles be used for construction debris.

§ 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 defend indemnify and hold harmless the Owner, their employees and elected officials, Owner's Representative, 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 alleged negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

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

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

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The 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.

§ 4.2.15 In carrying out his duties under this article 4, the Architect will be contractually obligated to consult with subcontracted engineers and other professionals as necessary. The Architect will advise the Owner if, in the Architect's judgment, additional professionals should be retained.

§ 4.2.16 Nothing in this contract shall be interpreted as superseding the Architect's duties and responsibilities as stated in the contract between the Owner and Architect.

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 not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents 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. The Contractor recognizes that the Contract Documents are intended to describe the design and construction. The Contractor hereby represents, promises, and warrants that the Guaranteed Maximum Price includes all costs consistent with the Contract Documents and reasonably inferable from the Contract Documents as being reasonably necessary to produce the results required by the Contract Documents.

§ 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.

§ 7.2.2 A change order shall be initiated by a Proposal Request (PR) from the Owner submitted through the Architect or from the Contractor to the Architect. The PR shall include a detailed description of the proposed change with supplementary or revised drawings and specifications. Within ten (10) days from the date of issuance of a PR, the Contractor shall respond, outlining the amount of the adjustment, if any, in the Contract Sum; and the extent of the adjustment, if any, in the Contract Time that are required as a result of the proposed change. Adjustments to the Contract Sum shall be stated in a lump sum amount or unit prices. Justification for adjustment to the Contract Time must be provided in the format outlined in the Contract Documents. "To be determined" or similar description, is not acceptable as an adjustment to the Contract Time. PRs that have been approved and signed by all parties are considered a change order as defined in section 7.2.1 and is authorization to proceed with the work described therein. Once a month, approved proposal requests will be grouped together using AIA form G701 for accounting purposes. The form G701 shall list the approved proposal requests, the net change in contract sum, the net change in contract time, and modification to the date of substantial completion. The issuance of form G701 shall not change any of the provisions outlined in an approved PR.

§ 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.

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

§ 8.2 Progress and Completion/Liquidated Damages

§ 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. The Contractor shall perform its obligations as expeditiously as is consistent with reasonable professional skill and care and the orderly progress of the Project. Owner and Contractor agree that it would be impractical and extremely difficult to estimate the damages, including, but not limited to indirect, incidental, special and consequential damages, which Owner might suffer if the Contractor fails to achieve Substantial Completion within the Contract Time. Therefore, Owner and Contractor have determined and agree that fair and reasonable compensation for the damages Owner may suffer if Contractor fails to achieve Substantial Completion within the Contract Time is One Thousand Dollars (\$1,000.00) per day, and Contractor agrees to pay the said amount for each day after the expiration of the Contract Time until such time as the Work is Substantially Completed. Such amounts ("Liquidated Damages") shall be Owner's sole and exclusive remedy, and not as a penalty, for Contractor's failure to achieve Substantial Completion within the Contract Time.

§ 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. The schedule of values shall be prepared in such a manner that each major item of subcontractor work is shown as a single line item on AIA Document G 703, Application and Certificate for Payment, Continuation Sheet. As a guide, each section of the Project Manual should be shown as a single line item. Upon request by the Architect, the Contractor shall support values given with data that will substantiate their correctness. The schedule of values shall be used only as a basis for the Contractor's application for payment.

Each item on the schedule of values shall be identified as per the detailed CSI Master Format Divisions as approved by the Owner.

If re-submittal is required after review by the Architect, the Contractor shall revise and resubmit the schedule of values in the same manner as required. The schedule of values must be approved prior to certification of the first Application for Payment by the Architect.

§ 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. All Applications for Payment shall be submitted by the Contractor to the Owner in the AIA G702 and G703 format. The Contractor agrees that securities shall not be substituted for any retainage specified 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.

§ 9.3.4 With each application for payment, the Contractor shall submit Progress Charts comparing the "work-in-place" progress to the Progress Schedule.

§ 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;
- .8 failure of the Contractor to submit Progress Charts in comparison to Progress Schedule with an application for payment;

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- .9 failure to comply with any laws, ordinances, regulations or orders of any public authority governing the performance of the work, including failure to obtain necessary permits or licenses; or
- .10 the Owner has been required to correct defective work.

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

- a. Claims have been made against the Owner on account of Contractor's performance or furnishing of the Work;
- b. Liens have been filed or recorded in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such liens;
- c. There are other items entitling Owner to a set-off against the amount recommended; or
- d. The Owner has a reasonable belief that any reasons enumerated in § 9.5.1 exist.

If the Owner refuses to make payment of all or any portion of the amount recommended by the Architect, the Owner will give the Contractor written notice (with a copy to the Architect) stating the reasons for such action. The Owner will promptly pay the Contractor the amount so withheld, or any adjusted amount agreed upon by the Owner and Contractor, when Contractor corrects to Owner's satisfaction the reasons for the withholding. If it is subsequently determined that the Owner's refusal to pay was not justified, the amount withheld shall be paid immediately to the Contractor.

§ 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 Upon completion of the Work covered by each pay application, and before or contemporaneously with payment of any sums due Contractor, Contractor shall produce and deliver to Owner, full, complete, and properly executed releases for the period of time covered by such pay application from all persons or entities who have furnished materials or labor, including Contractor, in connection with the Work. Such releases may be conditioned upon payment of an amount stated in such release for the work done for the applicable period of time. Contractor warrants that it will pay all subcontractors, sub-subcontractors, materialmen and suppliers any payment due them

arising out of this Contract promptly upon payment by the Owner. Without in any way limiting the foregoing, 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 the Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may be otherwise 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.

§ 9.6.9 Retainage shall be held in the amount of five percent (5%). Retainage shall be held against each line item of the schedule of values as work is completed and/or stored throughout the project duration. The contractor expressly agrees that securities shall not be substituted for any retainage specified in this section and that it shall not request any such substitution. This section 9.6.9 shall be deemed amended to comply with any applicable retainage laws of the state of Colorado or any amendment thereto.

§ 9.7 Failure of Payment

If the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the approved 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. Substantial Completion also means that all major systems are operational, and all safety features are completed.

§ 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. In addition to the other requirements of this Agreement, Contractor must have obtained the written approval and issuance of any occupancy permits required by the laws of the State of Colorado before Contractor shall be deemed to have achieved 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, and owner occupancy and use of substantially completed work does not constitute final acceptance by the owner of such work.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 "Final completion" of the work occurs following substantial completion and when the architect confirms, in writing, that the contractor has completed the work in accordance with the contract documents, including completion of all punch lists and cleanup work. 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, (6) originals or authenticated copies of all guarantees, warranties and certificates, (7) operating and maintenance manuals, (8) identification lists of all materials and equipment, (9) Inspection Certificates, (10) record documents, (11) demonstration by the Contractor to the Owner concerning the proper operation and maintenance of all equipment, and (12), 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, its employees and elected officials 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
(Paragraphs deleted)
Not Used

§ 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.

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

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 recognize the Project will be constructed on an occupied campus and 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; and
- .4 staff, and others associated with the Owner.

§ 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

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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.

§ 10.2.8.1 The Contractor shall take over and assume all responsibility for the areas of work that are covered under the Contract Documents. The Contractor shall provide and maintain all protection as required by the governing laws, rules, regulations, and ordinances. The Contractor shall be responsible for any loss or damage caused by him or his workmen to the property of the Owner and shall make good any loss, damage, or injury without cost to the Owner.

§ 10.2.8.2 The Contractor shall be solely responsible for the safety of his work, materials, equipment, tools, etc., on the site and shall, if he deems it necessary or expedient, employ at his own expense the services of a competent watchman. The Owner disclaims all responsibilities for the safety of the work, materials, equipment, tools, etc., or for any damage which may be done to same due to theft or any other cause until such time as the completed work is formally accepted by the Owner.

§ 10.2.8.3 The Contractor shall take special precautions against fire and shall comply fully with the requirements of city, county, and insurance authorities including stipulation as outlined below:

1. Combustible refuse shall be removed from the site and disposed of daily in a manner approved by the governing authorities.
2. Private and public streets, sidewalks, roads, etc., shall be protected and maintained during the course of work, and any damage to same shall be repaired by the Contractor at its own expense.

§ 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. The Contractor acknowledges that it and its employees, agents and subcontractors have the responsibility of being fully informed of the Owner's Management Plan, if any, as it relates to buildings located at the site and shall consult with the Owner about how such Plan addresses suspected or active asbestos-containing material areas within such buildings.

(Paragraph deleted)

§ 10.3.3 Not Used

(Paragraph deleted)

§ 10.3.5 In addition to Contractor's other indemnity obligations set forth herein, the Contractor shall defend (with counsel satisfactory to Owner), indemnify, and hold harmless the Owner, its employees and elected officials for the cost and expense the Owner incurs (1) for remediation of a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall 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, Expiration, or Material Modification of Contractor's Required Insurance. In addition to the notice required in the Agreement thirty (30) days prior to the cancellation, expiration, or material modification of Contractor's required insurance, within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation, expiration, or material modification of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation, expiration, or material modification. 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 or material modification 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.

(Paragraphs deleted)

§ 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.

(Paragraphs deleted)

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 two years after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of 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.

§ 12.3.1 In the event final payment has been made, the contractor shall pay and be liable to the owner for the reduction in the contract sum.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the State of Colorado. The parties agree that the venue for any mediation, and/or court proceeding shall be Eagle County, Colorado unless voluntarily mutually agreed to a different location; subject to Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 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.

§ 13.3.3 All remedies for breach of contract documents and breach of warranty are cumulative and not exclusive of each other, provided that double recovery shall not be allowed.

§ 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.

(Paragraphs deleted)

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 thirty (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 one hundred (100) percent of the total number of days scheduled for completion, or one hundred twenty (120) days in any three hundred sixty-five (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.

§ 14.1.4 If the Work is stopped for a period of sixty (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

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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.

(Paragraph deleted)

§ 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.

§ 14.4.4 In the event of any termination of the Contract, the Contractor agrees to reasonably cooperate and provide any information requested by Owner in connection with status and completion of the Project.

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. The Contractor shall also include a detailed critical path schedule with all dependencies marked accurately and a comparison to a prior similar schedule which illustrates the reason for the claim.

§ 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.

(Paragraphs deleted)

Init.

§ 15.1.7 The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. 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 litigation.

§ 15.2.6 Not Used

§ 15.2.6.1 Not Used

§ 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 Not Used

(Paragraphs deleted)

§ 15.4 Arbitration Not Used

(Paragraphs deleted)



Init.
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Additions and Deletions Report for AIA® Document A201® – 2017

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PAGE 1

Eagle Pool Replacement Project
1700 Bull Pasture Rd
Eagle, CO 81631

...

Town of Eagle
200 Broadway
Eagle, CO 81631

...

OLC Architecture
2000 Lawrence Street
Denver, CO 80205

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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.~~ Contract, and any exhibits. 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.

...

The Contract Documents as defined in section 1.1.1 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.

PAGE 11

§ 1.2.4 In the event the Contractor discovers an error in the drawings, or a conflict between the drawings and specifications, the Contractor shall bring such error or conflict to the attention of the Architect and Owner's

Representative as soon as reasonably possible. The Contractor shall await instructions from the Architect on how to proceed before proceeding with this work. Where a conflict occurs between or within standards, specifications and drawings, the more stringent or higher quality requirements shall apply. Addenda and modifications to the drawings and specifications take precedence over the original contract documents. Should there be a conflict within the specifications, or the drawings, or between the specifications and the drawings, the Owner shall decide which interpretation will provide the best installation and the Owner's decision shall be final.

...

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

PAGE 1

§ 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.~~ Town of Eagle. The Owner shall designate in writing a representative who shall have express ~~authority~~authority, to the extent permitted by Colorado law and the Owner's policies and regulations, 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.

...

§ 2.2.2 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. Notwithstanding any provision of this Section 2.2.2, no change order shall be executed which increases the amount payable under the Contract without funds being appropriated therefor, or the Contractor has otherwise been given written assurances that lawful appropriations to cover the extra costs have been made.

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§ 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~~Unless the Contractor has actual knowledge to the contrary, 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.~~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. If the Contractor becomes aware of any deficiency, inaccuracy or incompleteness of services and information furnished by Owner under this subsection 2.3.5., the Contractor shall promptly advise the Owner in writing of such inaccuracy or incompleteness.

...

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. Nothing herein shall in any way limit the Owner's legal right to revoke acceptance of the Work at a later time, in accordance with applicable law.

PAGE 14

§ 3.1.4 The contractor shall comply with all applicable federal labor and state labor laws including without limitation those addressing employer obligations for publicly funded projects.

...

§ 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 architect or other design professional, unless otherwise specifically provided in the Contract Documents. If the Contractor performs any construction activity knowing it involves an error, inconsistency or omission in the Contract Documents without providing notice of such error, inconsistency or omission to the Architect, the Contractor shall assume responsibility for such construction activity and shall bear the costs attributable to any necessary correction.

...

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall 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, upon written request of the owner, correct such failure(s) without adjustment to the contract sum. In the event a correction that will make the owner whole is not possible, then the contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

...

§ 3.3.1 The Contractor shall perform, supervise and direct the Work, using the Contractor's best skill and attention. ~~attention, which at a minimum, shall conform to industry standards for public facility construction in Colorado.~~ 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.

PAGE 15

§ 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.~~ ~~defects.~~ Work, materials, or equipment not conforming to these ~~requirements~~ requirements, including substitutions not approved and authorized by the owner, 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.

...

the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.5.3 The Contractor further warrants that the construction processes and methods employed to perform the work shall be suitable for the results required and expected. If the Contractor proposes to use an unproved and untried method, process or product, the architect must be advised of the proposal in writing for purposes of discussion with the Owner. The Owner may permit experimentation, but may require special guarantees of the Contractor to cover the work produced by any new and untried process, method or product.

§ 3.5.4 The Contractor further warrants that it has full title to all equipment, components and other items conveyed to the Owner under the terms of this contract, that its transfer of such title to the Owner is rightful and that all such equipment, components and other items shall be transferred free and clear from all security interest, liens or encumbrances whatsoever. The Contractor agrees to warrant and defend such title against all persons claiming the whole or any part thereof at no cost to the Owner.

§ 3.5.5 The Contractor shall promptly repair, replace or otherwise correct any of its workmanship and any parts, materials, components, equipment or other items in the work which contain faults or defects, whether such failures are observed by the Owner, architect or Contractor before or after final completion. The Contractor shall bear all costs of correcting such work covered by the warranties.

§ 3.5.6 The Contractor shall further warrant, and shall ensure that all of its subcontractors and sub-subcontractors shall warrant, that all work executed under this contract shall be free from defects of materials and workmanship for a period of one (1) year from the date of substantial completion, except items of work completed after date of Substantial completion shall run for one year from the date of final payment to the Contractor. This warranty is a remedy available to the Owner in addition to claims the Owner may have arising out of work or materials found to be noncomplying, out of specification or otherwise in breach of this contract no matter when discovered. The above parties further agree they will, at their own expense, repair and replace all such defective work and all other work damaged thereby which becomes defective during the one year warranty period. Whenever guarantees or warranties are required by the specifications for a longer period than one (1) year, such period shall govern. Owner shall have the full benefit of longer warranties provided by particular subcontractors or other suppliers. Upon discovery of any warranty defect or defects under section 3.5.5, the Owner shall give written notice thereof to the Contractor. If, within ten (10) days after the mailing of such written notice by the Owner to the Contractor or its agent, requesting such repairs or replacement, the Contractor shall neglect to make, or undertake with due diligence to make the same, the Owner may make such repairs at the Contractor's expense; provided, however, that in the case of emergency and within the judgment of the Owner, delay would cause certain loss or damage, repairs or replacement may be made without notice being given to the Contractor, and the Contractor shall pay the cost thereof. The checking or cracking of

walls, floors or ceilings, except hairline cracks from concrete shrinking which are cosmetic only, and the chipping or flaking of paint shall, during the first year after acceptance of the building, be deemed to be a defect covered by this warranty without proof of use of inferior materials, equipment or workmanship. Such defects shall not, in and if themselves, cause a duty to investigate for structural defects.

§ 3.5.7 Nothing herein shall be construed to establish a period of limitation with respect to any other obligation, which the Contractor might have under the contract documents. The establishment of the warranty periods set forth in Section 3.5.5 relates only to the specific obligations of the Contractor to correct known defects in the work, and has no relationship to the time within which its 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 its obligations and resulting damages other than specifically to correct known defects in the work which are discovered and called to the Contractor's attention during the warranty period.

§ 3.5.8 The Contractor at its own expense shall also repair or replace any damages to any equipment, facilities or other personal or real property owned or leased by the Owner which is damaged as a result of any such fault or defect or Contractor's performance of the Work, at no cost to the Owner.

§ 3.5.9 All subcontractors', manufacturers', and suppliers' warranties and guarantees, expressed or implied, for any part of the work and any materials used therein, shall be obtained and enforced by the Contractor for the benefit of the Owner whether or not these warranties have been assigned or otherwise transferred to the Owner. The Contractor shall assign or transfer such warranties and guarantees to the Owner if the Owner requests the Contractor to do so, but such transfer shall not affect the Contractor's obligation to enforce such warranties and guarantees.

§ 3.5.10 Remedies for breach of warranty are cumulative and in addition to any other remedy Owner may have for defective work or work not in compliance with the contract documents.

§ 3.5.11 The warranties and obligations set forth above shall not be limited by the provisions of § 12.2.

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~~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.~~ § 3.6.1 The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect. The Owner is exempt from Colorado State Sales and Use Taxes on materials and equipment to be incorporated into the Work. Said taxes on materials incorporated into the work, or upon equipment or supplies expended and/or used to exhaustion in the course of the work, shall not be included in the Guaranteed Maximum Price or modifications to the same. The Owner's tax exempt number is 84-6000655.

§ 3.6.2 Prior to the purchase of any property to be incorporated into the Work, the Contractor shall ensure that the purchaser, including the Contractor and all subcontractors on the Project, apply to the Department of Revenue, State of Colorado, for an exemption (Form DR-172) to be used for all Work performed and completed under this Contract. All purchases for the Work subject to tax shall use the exemption from sales tax. Any costs, taxes or fines that are incurred as a result of a failure to comply with the requirements of this § 3.6.2 shall be paid by the Contractor.

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§ 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 the Colorado Division of Fire Prevention & Control - Department of Fire Safety (the "Division"), or with a prequalified planning department certified by the Division pursuant to CRS 24-32-124(2)(a)(II), or other 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.

...

§ 3.7.2.1 Preference in employment of Colorado labor. The contractor shall comply with C.R.S. § 8-17-101 which states: "whenever any public works financed in whole or in part by funds of the state, counties, school districts, or municipalities of the state of Colorado are undertaken in this state, Colorado labor shall be employed to perform the work to the extent of not less than eighty percent of each type or class of labor in the several classifications of skilled and common labor employed on such project or public works. "Colorado labor" as used in this article means any person who is a resident of the state of Colorado, at the time of employment, without discrimination as to race, color, creed, sex, sexual orientation, marital status, national origin, ancestry, age, or religion except when sex or age is a bona fide occupational qualification."

§ 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, regardless of whether such work is in accordance with contract documents, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction. Codes and ordinances shall take full and complete precedence over anything contained in the contract documents, except where the contract documents require work or materials of higher standards than those required by codes and ordinances, in which case the contract documents shall govern. The Contractor shall promptly notify the Owner and Architect if the Contractor believes the Contract Documents require work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

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

...

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary ~~assistants~~ qualified assistant superintendents 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.

...

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

§ 3.10.1 The Contractor, ~~promptly~~ immediately 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. The schedule shall indicate the start and completion of each of the elements on the schedules, and shall indicate the major dependencies among elements on the schedule. The completion time shall be as specified in the Agreement. The schedule shall be revised when the completion time is revised by Change Order.

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

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment. § 3.13.1 The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.13.2 The site shall be kept clean and well organized at all times for purposes of safety, protection and care of project materials and equipment, as well as general aesthetics.

§ 3.13.3 The Contractor shall take reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to, all persons at the site and all property at the site and adjacent thereto. The contractor acknowledges that the work site may comprise buildings and areas that may be occupied during the performance of some portions of this contract.

§ 3.13.4 The Contractor shall notify all public utility companies 48 hours prior to the commencement of any work by it or its subcontractors in the vicinity of the utilities. No work shall commence until the utilities have been located and staked by the utility company or written consent from the Architect to proceed has been given to the contractor. If the utility service must be interrupted, the Contractor shall notify the head of the local administrative services (i.e., town manager, mayor or town clerk, as applicable) and the utility users affected by the interruption. Such notice shall consist of publication in a local newspaper and/or announcement on local radio or television stations, whichever is most reasonably calculated to give notice to such utility users.

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§ 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. The Contractor shall designate trash and debris areas where all building debris shall be put daily (these areas to be cleaned weekly). The work shall be reasonably cleaned daily. 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. The Contractor shall do the following special cleaning for all trades at completion of work: clean all glass, woodwork, painted and decorated work, hardware, tile work, fixtures, floors, windows, metal surfaces (leave the work perfectly clean). Under no circumstances shall the Owner's trash receptacles be used for construction debris.

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§ 3.18.1 To the fullest extent permitted by law, the Contractor shall defend indemnify and hold harmless the Owner, their employees and elected officials, Owner's Representative, 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 alleged 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.

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

PAGE 23

§ 4.2.15 In carrying out his duties under this article 4, the Architect will be contractually obligated to consult with subcontracted engineers and other professionals as necessary. The Architect will advise the Owner if, in the Architect's judgment, additional professionals should be retained.

§ 4.2.16 Nothing in this contract shall be interpreted as superseding the Architect's duties and responsibilities as stated in the contract between the Owner and Architect.

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§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents 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. The Contractor recognizes that the Contract Documents are intended to describe the design and construction. The Contractor hereby represents, promises, and warrants that the Guaranteed Maximum Price includes all costs consistent with the Contract Documents and reasonably inferable from the Contract Documents as being reasonably necessary to produce the results required by the Contract Documents.

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§ 7.2.2 A change order shall be initiated by a Proposal Request (PR) from the Owner submitted through the Architect or from the Contractor to the Architect. The PR shall include a detailed description of the proposed change with supplementary or revised drawings and specifications. Within ten (10) days from the date of issuance of a PR, the Contractor shall respond, outlining the amount of the adjustment, if any, in the Contract Sum; and the extent of the adjustment, if any, in the Contract Time that are required as a result of the proposed change. Adjustments to the Contract Sum shall be stated in a lump sum amount or unit prices. Justification for adjustment to the Contract Time must be provided in the format outlined in the Contract Documents. "To be determined" or similar description, is not acceptable as an adjustment to the Contract Time. PRs that have been approved and signed by all parties are considered a change order as defined in section 7.2.1 and is authorization to proceed with the work described therein. Once a month, approved proposal requests will be grouped together using AIA form G701 for accounting purposes. The form G701 shall list the approved proposal requests, the net change in contract sum, the net change in contract time, and modification to the date of substantial completion. The issuance of form G701 shall not change any of the provisions outlined in an approved PR.

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

§ 8.2 Progress and Completion/Liquidated Damages

§ 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. The Contractor shall perform its obligations as expeditiously as is consistent with reasonable professional skill and care and the orderly progress of the Project. Owner and Contractor agree that it would be impractical and extremely difficult to estimate the damages, including, but not limited to indirect, incidental, special and consequential damages, which Owner might suffer if the Contractor fails to achieve Substantial Completion within the Contract Time. Therefore, Owner and Contractor have determined and agree that fair and reasonable compensation for the damages Owner may suffer if Contractor fails to achieve Substantial Completion within the Contract Time is One Thousand Dollars (\$1,000.00) per day, and Contractor agrees to pay the said amount for each day after the expiration of the Contract Time until such time as the Work is Substantially Completed. Such amounts ("Liquidated Damages") shall be Owner's sole and exclusive remedy, and not as a penalty, for Contractor's failure to achieve Substantial Completion within the Contract Time.

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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. The schedule of values shall be prepared in such a manner that each major item of subcontractor work is shown as a single line item on AIA Document G 703, Application and Certificate for Payment, Continuation Sheet. As a guide, each section of the Project Manual should be shown as a single line item. Upon request by the Architect, the Contractor shall support values given with data that will substantiate their correctness. The schedule of values shall be used only as a basis for the Contractor's application for payment.

Each item on the schedule of values shall be identified as per the detailed CSI Master Format Divisions as approved by the Owner.

If re-submittal is required after review by the Architect, the Contractor shall revise and resubmit the schedule of values in the same manner as required. The schedule of values must be approved prior to certification of the first Application for Payment by the Architect.

...

§ 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. All Applications for Payment shall be submitted by the Contractor to the Owner in the AIA G702 and G703 format. The Contractor agrees that securities shall not be substituted for any retainage specified in the Contract Documents.

PAGE 30

§ 9.3.4 With each application for payment, the Contractor shall submit Progress Charts comparing the "work-in-place" progress to the Progress Schedule.

...

- ~~.7 repeated failure to carry out the Work in accordance with the Contract Documents- Documents;~~
- ~~.8 failure of the Contractor to submit Progress Charts in comparison to Progress Schedule with an application for payment;~~
- ~~.9 failure to comply with any laws, ordinances, regulations or orders of any public authority governing the performance of the work, including failure to obtain necessary permits or licenses; or~~
- ~~.10 the Owner has been required to correct defective work.~~

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

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

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

c. There are other items entitling Owner to a set-off against the amount recommended; or

d. The Owner has a reasonable belief that any reasons enumerated in § 9.5.1 exist.

If the Owner refuses to make payment of all or any portion of the amount recommended by the Architect, the Owner will give the Contractor written notice (with a copy to the Architect) stating the reasons for such action. The Owner will promptly pay the Contractor the amount so withheld, or any adjusted amount agreed upon by the Owner and Contractor, when Contractor corrects to Owner's satisfaction the reasons for the withholding. If it is subsequently determined that the Owner's refusal to pay was not justified, the amount withheld shall be paid immediately to the Contractor.

...

§ 9.6.4 The Upon completion of the Work covered by each pay application, and before or contemporaneously with payment of any sums due Contractor, Contractor shall produce and deliver to Owner, full, complete, and properly executed releases for the period of time covered by such pay application from all persons or entities who have furnished materials or labor, including Contractor, in connection with the Work. Such releases may be conditioned upon payment of an amount stated in such release for the work done for the applicable period of time. Contractor warrants that it will pay all subcontractors, sub-subcontractors, materialmen and suppliers any payment due them arising out of this Contract promptly upon payment by the Owner. Without in any way limiting the foregoing, 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 the Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may be otherwise be required by law.

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§ 9.6.9 Retainage shall be held in the amount of five percent (5%). Retainage shall be held against each line item of the schedule of values as work is completed and/or stored throughout the project duration. The contractor expressly agrees that securities shall not be substituted for any retainage specified in this section and that it shall not request any such substitution. This section 9.6.9 shall be deemed amended to comply with any applicable retainage laws of the state of Colorado or any amendment thereto.

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 approved 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.

...

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. Substantial Completion also means that all major systems are operational, and all safety features are completed.

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§ 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. In addition to the other requirements of this Agreement, Contractor must have obtained the

written approval and issuance of any occupancy permits required by the laws of the State of Colorado before Contractor shall be deemed to have achieved substantial completion.

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§ 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. ~~Documents, and owner~~ occupancy and use of substantially completed work does not constitute final acceptance by the owner of such work.

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§ 9.10.1 "Final completion" of the work occurs following substantial completion and when the architect confirms, in writing, that the contractor has completed the work in accordance with the contract documents, including completion of all punch lists and cleanup work. 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)-(6) originals or authenticated copies of all guarantees,~~ warranties and certificates, (7) operating and maintenance manuals, (8) identification lists of all materials and equipment, (9) Inspection Certificates, (10) record documents, (11) demonstration by the Contractor to the Owner concerning the proper operation and maintenance of all equipment, and (12), 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-Owner, its employees and elected officials~~ 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.

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§ 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.~~ Not Used

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

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§ 10.2.1 The Contractor shall recognize the Project will be constructed on an occupied campus and shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

...

- .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-construction~~; and
- .4 staff, and others associated with the Owner.

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§ 10.2.8.1 The Contractor shall take over and assume all responsibility for the areas of work that are covered under the Contract Documents. The Contractor shall provide and maintain all protection as required by the governing laws, rules, regulations, and ordinances. The Contractor shall be responsible for any loss or damage caused by him or his workmen to the property of the Owner and shall make good any loss, damage, or injury without cost to the Owner.

§ 10.2.8.2 The Contractor shall be solely responsible for the safety of his work, materials, equipment, tools, etc., on the site and shall, if he deems it necessary or expedient, employ at his own expense the services of a competent watchman. The Owner disclaims all responsibilities for the safety of the work, materials, equipment, tools, etc., or for any damage which may be done to same due to theft or any other cause until such time as the completed work is formally accepted by the Owner.

§ 10.2.8.3 The Contractor shall take special precautions against fire and shall comply fully with the requirements of city, county, and insurance authorities including stipulation as outlined below:

1. Combustible refuse shall be removed from the site and disposed of daily in a manner approved by the governing authorities.
2. Private and public streets, sidewalks, roads, etc., shall be protected and maintained during the course of work, and any damage to same shall be repaired by the Contractor at its own expense.

§ 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. The Contractor acknowledges that it and its employees, agents and subcontractors have the responsibility of being fully informed of the Owner's Management Plan, if any, as it relates to buildings located at the site and shall consult with the Owner about how such Plan addresses suspected or active asbestos-containing material areas within such buildings.

§ 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. Not Used

§ 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.~~ In addition to Contractor's other indemnity obligations set forth herein, the Contractor shall defend (with counsel satisfactory to Owner), indemnify, and hold harmless the Owner, its employees and elected officials for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

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§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. ~~Within Cancellation, Expiration, or Material Modification of Contractor's Required Insurance.~~ In addition to the notice required in the Agreement thirty (30) days prior to the cancellation, expiration, or material modification 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 cancellation, expiration, or material modification of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. cancellation, expiration, or material modification. 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 or material modification 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 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.

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§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within ~~one year~~ two years after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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§ 12.3.1 In the event final payment has been made, the contractor shall pay and be liable to the owner for the reduction in the contract sum.

...

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 State of Colorado. The parties agree that the venue for any mediation, and/or court proceeding shall be Eagle County, Colorado unless voluntarily mutually agreed to a different location; subject to Section 15.4.

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§ 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.~~

...

§ 13.3.3 All remedies for breach of contract documents and breach of warranty are cumulative and not exclusive of each other, provided that double recovery shall not be allowed.

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§ 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.

...

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of ~~30~~ thirty (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:

...

§ 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~~ one hundred (100) percent of the total number of days scheduled for completion, or ~~120 days in any 365 day~~ one hundred twenty (120) days in any three hundred sixty-five (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.~~ executed.

§ 14.1.4 If the Work is stopped for a period of ~~60~~ sixty (60) consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

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~~**§ 14.2.4** 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.~~

...

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the ~~Agreement~~ Subcontracts.

§ 14.4.4 In the event of any termination of the Contract, the Contractor agrees to reasonably cooperate and provide any information requested by Owner in connection with status and completion of the Project.

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§ 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. The Contractor shall also include a detailed critical path schedule with all dependencies marked accurately and a comparison to a prior similar schedule which illustrates the reason for the claim.

...

§ 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.

§ 15.1.7 The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. 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.

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§ 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.litigation.

§ 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.Not Used

§ 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.Not Used

...

§ 15.3 MediationNot Used

§ 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 Not Used

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~~§ 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.

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Colleen Kaneda, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 16:18:30 ET on 03/05/2024 under Order No. 4104246640 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ – 2017, General Conditions of the Contract for Construction, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)



AIA® Document A133® – 2019 Exhibit B

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Construction Manager, dated the 24 day of October in the year 2023
(In words, indicate day, month and year.)

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

Eagle Pool Replacement Project
1700 Bull Pasture Rd.
Eagle, CO 81631

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

Town of Eagle
200 Broadway
Eagle, CO 81631

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

JHL Constructors
9100 E. Panorama Drive
Suite 300
Englewood, CO 80112

TABLE OF ARTICLES

B.1 GENERAL

B.2 OWNER'S INSURANCE

B.3 CONSTRUCTION MANAGER'S INSURANCE AND BONDS

B.4 SPECIAL TERMS AND CONDITIONS

ARTICLE B.1 GENERAL

The Owner and Construction Manager shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit, 14.3.5 of AIA Document A133-2019 and Article 11 of AIA Document A201-2017. As used in this Exhibit, the term General Conditions refers to AIA Document A201™–2017, General Conditions of the Contract for Construction.

ADDITIONS AND DELETIONS:

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

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

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

ARTICLE B.2 OWNER'S INSURANCE

§ B.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article B.2 and, upon the Construction Manager's request, provide a copy of the property insurance policy or policies required by Section B.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ B.2.2 Liability Insurance

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

§ B.2.3 Required Property Insurance

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

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

(Indicate below the cause of loss and any applicable sub-limit.)

Cause of Loss	Sub-Limit
N/A	N/A

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

Coverage	Sub-Limit
N/A	N/A

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

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

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

§ B.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, “all-risks” property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section B.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ B.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.

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

- ☐ § **B.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner’s property, or the inability to conduct normal operations due to a covered cause of loss.
- ☐ § **B.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.
- ☐ § **B.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.
- ☐ § **B.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.
- ☐ § **B.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.
- ☐ § **B.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured’s business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.
- ☐ § **B.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ B.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

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

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

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

Coverage

Limits

ARTICLE B.3 CONSTRUCTION MANAGER'S INSURANCE AND BONDS

§ B.3.1 General

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

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

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

§ B.3.2 Construction Manager's Required Insurance Coverage

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

(If the Construction Manager is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ B.3.2.2 Commercial General Liability

§ B.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than Two million Dollars and Zero Cents (\$ 2,000,000.00) each occurrence, Four million Dollars and Zero Cents (\$ 4,000,000.00) general aggregate, and Four million Dollars and Zero Cents (\$ 4,000,000.00) aggregate for products-completed operations hazard, providing coverage for claims including

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

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

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

§ B.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager, with policy limits of not less than Two million Dollars and Zero Cents (\$ 2,000,000.00) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

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

§ B.3.2.5 Workers' Compensation at statutory limits.

§ B.3.2.6 Employers' Liability with policy limits not less than One million Dollars and Zero Cents (\$ 1000000.00) each accident, One million Dollars and Zero Cents (\$ 1000000.00) each employee, and One million Dollars and Zero Cents (\$ 1000000.00) policy limit.

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

§ B.3.2.8 If the Construction Manager is required to furnish professional services as part of the Work, the Construction Manager shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than One million Dollars and Zero Cents (\$ 1000000.00) per claim and One million Dollars and Zero Cents (\$ 1000000.00) in the aggregate.

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

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

§ B.3.2.11 Not Used.

§ B.3.2.12 Not Used.

§ B.3.3 Construction Manager's Other Insurance Coverage

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

(If the Construction Manager is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

§ B.3.3.2 The Construction Manager shall purchase and maintain the following types and limits of insurance in accordance with Section B.3.3.1.

(Select the types of insurance the Construction Manager is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

- ☒ **§ B.3.3.2.1** Property insurance of the same type and scope satisfying the requirements identified in Section B.2.3, which, if selected in this Section B.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section B.2.3.1.3 and Section B.2.3.3. The Construction Manager shall comply with all obligations of the Owner under Section B.2.3 except to the extent provided below. The Construction Manager shall disclose to the Owner the amount of any deductible, and the Owner shall not be responsible for losses within the deductible. Upon request, the Construction Manager shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
- (Where the Construction Manager's obligation to provide property insurance differs from the Owner's obligations as described under Section B.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)*

Construction Manager's Builder's Risk policy shall cover all new construction and any renovations, demolitions or additions to existing structures.

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

- ☐ **§ B.3.3.2.3 Asbestos Abatement Liability Insurance**, with policy limits of not less than (\$) per claim and (\$) in the aggregate, for liability arising from the encapsulation, removal, handling, storage,

transportation, and disposal of asbestos-containing materials.

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

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

☒ § **B.3.3.2.6 Other Insurance**

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

Coverage

Umbrella Liability

Limits

Ten Million Dollars (\$10,000,000.00) each occurrence and Ten Million Dollars (\$10,000,000.00) Aggregate

Excess Liability

Ten Million Dollars (\$10,000,000.00) each occurrence and Ten Million Dollars (\$10,000,000.00) Aggregate

§ B.3.4 Performance Bond and Payment Bond

The Construction Manager shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:

(Specify type and penal sum of bonds.)

Type

Payment Bond

Penal Sum (\$0.00)

100%

Performance Bond

100%

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

ARTICLE B.4 SPECIAL TERMS AND CONDITIONS

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

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

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 21:40:10 ET on 03/06/2024.

PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Construction Manager, dated the 24 day of October in the year 2023

...

Eagle Pool Replacement Project
1700 Bull Pasture Rd.
Eagle, CO 81631

...

Town of Eagle
200 Broadway
Eagle, CO 81631

...

JHL Constructors
9100 E. Panorama Drive
Suite 300
Englewood, CO 80112

...

The Owner and Construction Manager shall purchase and maintain insurance, and provide bonds, as set forth in this ~~Exhibit-Exhibit, 14.3.5~~ of AIA Document A133-2019 and Article 11 of AIA Document A201-2017. As used in this Exhibit, the term General Conditions refers to AIA Document A201™-2017, General Conditions of the Contract for Construction.

PAGE 2

N/A

N/A

...

N/A

N/A

PAGE 5

§ B.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than Two million Dollars and Zero Cents (\$ 2,000,000.00) each occurrence, Four million Dollars and Zero Cents (\$ 4,000,000.00) general aggregate, and Four million Dollars and Zero Cents (\$ 4,000,000.00) aggregate for products-completed operations hazard, providing coverage for claims including

...

§ B.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager, with policy limits of not less than Two million Dollars and Zero Cents (\$ 2,000,000.00) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

...

§ B.3.2.6 Employers' Liability with policy limits not less than One million Dollars and Zero Cents (\$ 1000000.00) each accident, One million Dollars and Zero Cents (\$ 1000000.00) each employee, and One million Dollars and Zero Cents (\$ 1000000.00) policy limit.

PAGE 6

§ B.3.2.8 If the Construction Manager is required to furnish professional services as part of the Work, the Construction Manager shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than One million Dollars and Zero Cents (\$ 1000000.00) per claim and One million Dollars and Zero Cents (\$ 1000000.00) in the aggregate.

...

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

...

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

...

[X] § B.3.3.2.1 Property insurance of the same type and scope satisfying the requirements identified in Section B.2.3, which, if selected in this Section B.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section B.2.3.1.3 and Section B.2.3.3. The Construction Manager shall comply with all obligations of the Owner under Section B.2.3 except to the extent provided below. The Construction Manager shall disclose to the Owner the amount of any deductible, and the Owner shall not be responsible for losses within the deductible. Upon request, the Construction Manager shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:

...

Construction Manager's Builder's Risk policy shall cover all new construction and any renovations, demolitions or additions to existing structures.

PAGE 7

[X] § B.3.3.2.6 Other Insurance

...

Umbrella Liability

Ten Million Dollars (\$10,000,000.00) each occurrence and Ten Million Dollars (\$10,000,000.00) Aggregate

Excess Liability

Ten Million Dollars (\$10,000,000.00) each occurrence and Ten Million Dollars (\$10,000,000.00) Aggregate

...

Payment Bond
Performance Bond

100%
100%

REQUEST FOR QUALIFICATIONS & PROPOSAL (RFQ/P)



FOR PROFESSIONAL SERVICES

Request for Qualifications & Proposal for Professional Services
CONSTRUCTION MANAGER / GENERAL CONTRACTOR
For
EAGLE POOL REPLACEMENT PROJECT
August 14th, 2023

Qualifications Due: September 1st, 2023 at 12:00 PM

Provided by: DYNAMIC PROGRAM MANAGEMENT



Request for Qualifications & Proposal

A. Invitation & Procurement Schedule

The Town of Eagle (Owner) would hereby invite interested firms and/or individuals (Professional Service Providers) to submit a response to this Request for Qualifications & Proposal (RFP) for professional services in support of the Eagle Pool Replacement project, located in Eagle, Colorado.

QUALIFICATIONS SUBMITTAL INSTRUCTIONS

The Owner desires to receive a clear, concise, economical presentation of the vendor's proposal. Candidates for this Request for Qualification and Proposal for professional services shall submit the following by electronic mail to melissa.daruna@townofeagle.org with a CC to: procurement@dynamiccpm.com and katie.droxler@dynamiccpm.com by 12:00 PM Mountain Standard Time on September 1, 2023.

No physical copy will be required, please address the Cover Letter to:

Ms. Melissa Daruna, Assistant Town Manager
200 Broadway
Post Office Box 609
Eagle, Colorado 81631

All official communication with Candidates and questions regarding this RFQ/P will be via email to the Owner's Representative, Dynamic Program Management, at procurement@dynamiccpm.com with a cc to katie.droxler@dynamiccpm.com

All Candidate inquiries will be responded to at the same time which will be after the "Clarification Deadline". **Responses to clarification will be made available by email to all Candidates who requested the RFQ/P.** Candidates should not rely on any other statements, either written or oral, that alter any specification or other term or condition of the RFQ/P during the open solicitation period. **Candidates should not contact any other team members, or any individual associated with the Owner regarding this RFQ/P or this project.**

PROCUREMENT SCHEDULE (Subject to Change)

RFQ/P Available	8.14.2023
Non-mandatory Site Visit @ 11 AM (1700 Bull Pasture Road, Eagle)	8.21.2023
RFQ/P Clarification Question Deadline by 12 PM	8.22.2022
RFQ/P Clarification Responses	8.24.2023
RFQ/P Responses due by 12:00 PM	9.01.2023
Interview Invitations sent to Short-Listed Candidates	9.07.2023
Interviews	Week of 9.11.2023
Candidates Notified of Selection	9.18.2023
Construction Commences	(Possible demolition Fall 2023); Spring 2024
Construction Complete	Spring 2025

SUBMISSION CHECK LIST

A complete submission includes the following:

1. Cover Letter
2. Firm Information
3. Qualifications of Proposed Team
4. Similar Project Experience
5. Schedule
6. Project Approach
7. References

Fees are not to be submitted at this time. A short list of candidates will be invited for interviews and fee proposals will be required as part of the interview process.

CONTRACT FORMAT

The contract format for this project will be a modified AIA A133-2019 and AIA A201-2017 General Conditions or a contract as provided by the Owner's legal counsel. The short-listed candidates invited for interviews will be provided with the proposed contract for comment prior to interviews. While the Town of Eagle and Mountain Recreation are joint partners in the project, the contract will be held by the Town of Eagle.

B. Owner and Project Information

Please refer to the Owner's website here (<https://www.townofeagle.org>) for information regarding the Owner.

Mountain Recreation, a separate recreation metropolitan district serving the communities of Eagle, Edwards and Gypsum, is a joint financial partner in the project and will be the operator of the pool facility. Please refer to Mountain Recreation's website for more information: <https://mountainrec.org/>

The Town and Mountain Rec are working together to replace the swimming pool located in Eagle, Colorado. The Owner is focused on reviving a community gathering space which promotes the healthy lifestyle of local residents.

During its 20 years of operation, the original Eagle Pool faced several challenges, the most recent being unusual water leakage which led to its closing in 2022. The Owner engaged WJE to investigate the pool and subsoils. WJE's report can be found here: https://mountainrec.org/wp-content/uploads/2022/09/Mountain-Recreation-Phase-2-Report_Final.pdf

The main priority of this project is quality and longevity of the facility, especially with respect to subsurface mitigation, within the \$13M budget. Energy efficiency and sustainability measures are attractive to the Owner provided that they either reduce cost or remain within the budget.

The Town and Mountain Rec have decided to move forward with the pool option to replace the pool in the existing location.

In addition to the pool replacement, it is assumed that full mechanical, electrical and plumbing systems for the pool will need to be replaced. An addition to the existing pool/ice facility are also included in the current project scope for additional restroom and changing areas.

Input from the community will be welcomed throughout the process and Design Advisory Group (DAG) meetings will be facilitated by the design team. The DAG process and community input process will run through Design Development.

Please refer to the documents in the link below regarding the option to replace the pool in the existing location:

https://drive.google.com/drive/folders/1uN4uh1ui_xMH_gZDefUoQh3fi--X6a-H?usp=sharing

The Owner intends to hire, or has already selected, the following professionals for the project team:

Owner's Representative (Dynamic Program Management)
Surveyor (TBD)
Architect / Engineering (<i>in progress</i>)
Geotechnical Engineer & CMT (TBD)
CM/GC (<i>in progress</i>)
Commissioning Agent (TBD)

C. Scope of Work

The CM/GC Scope of Work will generally consist of the requirements in the AIA A133-2019 and AIA A201-2017 General Conditions contract and the following:

TRANSPARENCY

All scope of work shall be completed in a collaborative and transparent manner. The Candidate should expect to attend Town Council, Owner, OAC, Community meetings which may occur in evenings outside of normal business hours. All subcontractor bid responses will be shared with the Owner for review.

PRECONSTRUCTION SERVICES

Candidate shall immediately begin providing preconstruction services upon selection. Milestone cost estimates will be provided at 100% SD and 100% DD. Detailed Initial GMP and final GMP estimates per permitting sequencing will be provided by the Candidate.

As needed, Candidate will provide real-time pricing with the objective to hold the project within target budget. A trend log, including potential alternates and value engineering, shall be managed and communicated by the Candidate to the team members. Written constructability review will be provided during the preconstruction phase. These may include construction review of construction assemblies, materials, lead time, architectural details, schedule impacts, sequencing and site limitations. These reviews will be completed at Schematic, Design Development, and interim Construction Document review periods.

All work shall be competitively bid for the project and presented to the owner for final acceptance of subcontractors. Candidate shall provide to the team any cost increases or decreases to select local subcontractors.

Candidate will coordinate with team members to establish a detailed construction schedule identifying long lead items and critical path activities. The Candidate will work

with the Owner, Owner's Representative, and Design Team to plan an acceptable site staging and work plan for construction activities.

CONSTRUCTION

The Owner is seeking a CM/GC to coordinate and manage the building process as a member of the project team. The Candidate shall understand construction methods and techniques. Candidate shall construct of the project in accordance with construction documents and specifications within the scheduled timeframe.

Site – Candidate will provide supervision of all internal personnel and subcontractors including ensuring internal personnel and subcontractors on site have cleared background checks based on the Owner's criteria. Candidate will ensure prohibited items by law are not brought onto the County's property by those under the Candidate's responsibility. Candidate is responsible for site safety. Candidate will work with the Owner's selected construction material testing firm to provide appropriate notice of inspection requests. Candidate will work with the Owner's selected commissioning agent and provide timely information as requested by this consultant.

Schedule – Candidate shall manage the construction schedule and communicate the 5-week look ahead schedule every week and provide updated full project schedules monthly with each application for payment.

Budget - Candidate is responsible for the construction budget and will provide weekly budget updates to the Owner, Owner's Representative, and Design Team. Pay applications will be provided per the contract in a timely fashion so that invoices may be submitted to the Owner for payment.

Documentation - Maintain and provide to the Owner all construction related documentation such as RFI's, submittals, schedules, and inspections. Candidate shall fulfill contractor's responsibilities regarding actions, documentation and submissions for the selected sustainability program, if any.

Quality – Quality control is the CM/GC's responsibility. The Candidate shall provide a product with the highest quality workmanship.

Completion - Close-out and warranty services will be in accordance with contract documents. CM/GC will work with project team members to close out the project proactively and efficiently at completion. Candidate will provide warranty request process to the Owner and respond appropriately and timely to such requests.

UTILITY COORDINATION

Candidates will be expected to assist in utility coordination with the various utility providers with assistance from the Owner's Representative and Design Team. Scheduling any utility installation will be CM/GC's responsibility.

LOCAL EXPENSES

Candidate should understand local economic impact is important to the Owner. The Candidate will be expected to track and report to the Owner's Representative on each pay application a breakout of local expenses for any local labor, subcontractor, meals, lodging, subconsultants, gas, etc. made within Eagle County boundaries for the duration of the

project. These expenses are compiled each month and provided to the Owner's Representative as an estimate of expenses spent within the community as a result of the project.

PROJECT FUNDING

This project will be funded by the Town of Eagle and by Mountain Recreation provided the facility can be constructed within the Owner's budget.

D. Submittal Requirements

Responses shall respond to each item noted below. Please limit response information to relevant information only.

1. SIGNED COVER LETTER / LETTER OF INTEREST

2. FIRM INFORMATION

Provide a brief history of the firm including the following information:

- Number of years in business
- Location of office servicing
- Location of main office, if different
- Provide a statement for the maximum dollar value in which your firm can be bonded, and the amount currently bonded with confirmation statement from bonding company
- Provide your firm's EMR
- Information on any claims or lawsuits your firm has had in the past 10 years.
- Confirmation your firm will include all items outlined in the Scope of Work in Section C.
- Indicate if your team meets the following Insurance requirements. Please provide an Acord Format Insurance Certificate showing existing limits.

○ General Liability

- | | |
|---|--------------|
| ▪ Commercial General Aggregate | \$ 4,000,000 |
| ▪ Products/Completed Operations Aggregate | \$ 4,000,000 |
| ▪ Each Occurrence Limit | \$ 2,000,000 |
| ▪ Personal/Advertising Injury | \$ 2,000,000 |

○ Auto Liability

- \$2M* Bodily Injury/Property Damage Each Accident Coverage applying to owned, hired and non-owned autos

○ Workers' Compensation

- Per State minimums

3. QUALIFICATIONS OF PROPOSED TEAM

- Provide organizational chart for your proposed team, including roles and responsibilities for each team member
- Provide resumes for all key team members
- Please note proposed key team members are expected to be involved throughout the life of the project and may not be changed without written authorization from the Owner

4. SIMILAR PROJECT EXPERIENCE

- Provide project profiles for up to five similar projects in progress or completed by your firm. Please include the following:
 - o Project Description
 - o Approximate Program Cost
 - o Client or Owner's Rep Contact Information
 - o Architect Contact Information
 - o Information regarding if the project was delivered on time and on budget, and if not, why?
 - o A description of how this project is similar to the Eagle Pool Replacement project
- The selection committee is interested in reviewing projects in which the proposed key team members have provided services and worked collaboratively together.

5. SCHEDULE

- Provide a detailed project construction schedule that clearly identifies key milestones for the project working within the constraints of new construction starting in the spring of 2024 and pool opening no later than Memorial Day 2025. If there are any possibilities to opening the new pool facility by late summer 2024, please describe how this could be accomplished. The Owner is interested in exploring the pros/cons of demolition of the existing pool in the fall of 2023.
- Describe how your team will ensure the project schedule will be met.
- Discuss any areas in which there could be opportunities to expedite the work.

6. PROJECT APPROACH

- Provide your team's philosophy in approaching projects within the CM/GC delivery system.
- How do you manage challenges with respect to budget, schedule, and ensuring quality of the finished project?
- Discuss how your firm will include local suppliers and subcontractors in the bidding process.

7. REFERENCES

Provide a list of recent, relevant publicly funded projects completed or begun within the past 5 years by your firm with contact information, along with a project description. Identify in the reference list which projects this CM/GC team has performed collectively. The Owner reserves the right to check additional references beyond those provided in the submittal.

SUBMITTAL SCORING MATRIX

Submittal Section	Points
COVER LETTER	0
FIRM INFORMATION	10
QUALIFICATIONS OF PROPOSED TEAM	20
SIMILAR PROJECT EXPERIENCE	20
SCHEDULE	20
PROJECT APPROACH	20
REFERENCES	10
TOTAL	100 POINTS

E. Short List and Interviews

From the scoring results, the selection committee will short list 3-5 firms to invite to an interactive interview. At the time of interviews, initial scoring will be discarded, and all firms will start from equal scoring positions.

The interview format will include an initial session prepared by the Candidate with the selection committee and then time for Q&A. Fees and contract comments will be submitted in advance of the interviews. Fees will be reviewed for all short-listed firms and will be a portion of the scoring matrix for final selection.

The proposed contract and more detailed interview format information will be provided to the short-listed Candidates.

F. Provisions

ACCEPTANCE AND REJECTION

The Owner reserves the right to request additional information which, in the Owner's opinion, is necessary to ensure that the Owner has complete information with regard to the Professional Service Provider's competence, business organization, and financial resources to assist in determining if the Professional Service Provider is qualified.

The Owner reserves the right (a) to terminate the Request for Proposals process at any time; (b) to reject any or all proposals; and (c) to waive formalities and minor irregularities in the proposals received. The Owner reserves the right to reject any and all proposals in response to this Request for Proposal that are deemed not to be in the Owner's best interests. The Owner further reserves the right to amend this Request for Proposal at any time and will notify all recipients accordingly.

RFQP SUBMISSION INFORMATION

Proposals due at the specified date and time must be received at Owner's location by that date and time to receive consideration. Proposals received after the specified date and time are considered late and are not opened. Owner is not responsible for any late proposals received by mail or any other method of delivery.

The Owner is not responsible for cost incurred in preparation of this proposal. Proposals will not be returned and become the property of the Owner once submitted. By submitting a proposal all Candidates agree to the terms and conditions of this RFQ/P and the RFQ/P will become part of the awarded Candidates contract. The Owner and the Owner's legal counsel will review the agreement and negotiate terms prior to commencement of work.

Candidates acknowledge all submissions to this RFQP may be subject to the Colorado Open Records Act (CORA).

INSURANCE

The Professional Service Provider shall provide insurance coverage for the Project which shall not be less than the amounts listed in the contract as set forth in the Request for Qualifications and Proposals; such insurance coverage shall include professional liability, general liability, automobile liability and workers' compensation.

The consultant and their insurance carrier(s) shall agree to a Waiver of Subrogation. At the time of award, consultant shall furnish to Owner a Certificate of Insurance for General Liability naming the Owner and Owner's Representative as additional insured to provide evidence of insurance compliance. Consultant shall also furnish to Owner a Certificate of Insurance for Professional Liability to provide evidence of insurance compliance.

End - Request for Qualifications & Proposal

REQUEST FOR QUALIFICATIONS & PROPOSAL (RFQ/P)

FOR PROFESSIONAL SERVICES



Request for Qualifications & Proposal for Professional Services
CONSTRUCTION MANAGER / GENERAL CONTRACTOR
For
EAGLE POOL REPLACEMENT PROJECT

INTERVIEW INVITATION & REQUEST FOR PROPOSAL
September 8, 2023

Provided by: **DYNAMIC PROGRAM MANAGEMENT**



INTERVIEW INVITATION & REQUEST FOR PROPOSAL

After receiving qualifications, the Town of Eagle is pleased to invite your firm to an interview session for the Eagle Pool Replacement Project. Please see information contained below regarding the interview and Request for Proposal.

A. PROCUREMENT SCHEDULE REMAINING

Fee Proposal due electronically by 8:15 AM to katie.droxler@dynamiccpm.com and procurement@dynamiccpm.com	09.15.2023
Interviews Location: Town Hall, 200 Broadway, Eagle CO 81631 RA Nelson: 8:30 AM – 9:30 AM JHL Constructors: 9:45 AM – 10:45 AM AD Miller: 11:00 AM – 12:00 PM	09.15.2023
Candidates Notified of Selection (on or before)	09.19.2023

B. DOCUMENTS ISSUED TO DATE

- a. Eagle Pool Replacement CMGC RFQ/P
- b. Clarification #1 – Indicating no clarification questions were received
- c. Eagle Pool Replacement Interview Invitation (this document)
- d. Eagle Pool Replacement Fee & General Conditions Workbook (included with this Interview Invitation)

C. EXPECTED SELECTION COMMITTEE

Larry Pardee, Town Manager
 Melissa Daruna, Assistant Town Manager
 Tom Gosiorowski, Town Director of Public Works
 Ture Nycum, Executive Director, Mountain Recreation
 Scott Ruff, Director of Facilities, Mountain Recreation
 Sheryl Staten, Facility Supervisor, Mountain Recreation

In addition to the scoring members above, attendees may include the following individuals who will not be scoring:

Up to 2 team members each from Dynamic Program Management and OLC Architecture

D. ADDITIONAL DOCUMENTS / INFORMATION

After a selection process, the Owner has elected to move forward with OLC Architecture for design services.

A fee workbook is attached for Candidate completion and submission in Excel and PDF formats.

The proposed contract, a modified AIA A133 and A201 are currently being reviewed by the Town's legal counsel. If available prior to the interview sessions, the proposed contract will be provided to candidates for review and comment.

E. INTERVIEW INFORMATION

The Owner received five responses to the RFQ/P for CM/GC Services. Per the date and times listed above, the selection committee has requested interviews with three qualified Candidates. Please bring the key staff members that will be integral to the project to the interview/work session.

The interview room will most likely have technology available. However, if you are so inclined, in the event the projection system in the room is not available, feel free to bring your own projector and/or screen if needed.

The selection committee has requested the following for the interview session in two parts:

Interactive Session	35 Minutes
Q&A	25 Minutes
Total Time	60 Minutes

Interactive Session:

Setup time is included in the interview time limit.

The selection committee would like the candidates to utilize the interactive session time to run an initial OAC meeting with the committee. Candidates may include any topics that the candidate feels are important for the selection committee in addition to these key topics:

- Introduce team & roles
- Discuss proposed schedule(s) including the Owner's desire to commence construction in the Spring of 2023 and open the pool by Memorial Day 2025.

Regarding schedule, please assume the following key design milestones:

100% SD Documents: October 31st, 2023
 100% DD Documents: December 31st, 2023
 100% CD Documents: March 1st, 2024

Please consider the interview session to be an interactive session with the selection committee to get a feel for what it is like to work with your team. Please direct your session to be focused on the Eagle Pool Replacement Project.

F. SUBMISSION REQUIREMENTS

Candidates shall submit the following per directions noted above.

Fee Proposal

Please provide a fee proposal utilizing the Excel workbook provided – in both Excel and PDF format, via email, submitted as directed in Section A above.

A complete fee will include lump sums and/or % on the cost of work for the following:

- Preconstruction Fee
- General Conditions/Requirements
- Additional cost to provide 24-month warranty, from base 12-month warranty
- % Fee
- % General Liability Insurance
- % Performance and Payment Bonds
- % Subcontractor Default Insurance (if applicable)
- % Builder's risk insurance
- % Markup on Change Orders
- % Markup allowed by subcontractors on Change Orders
- % Contractor Contingency carried at various phases of design
- Provide your firm's equipment rate sheet
- Hourly rates of personnel
- # of weeks candidate commits to completing the construction phase of the project
- Contractor Contingency % at each stage of design

Please note the selection committee is looking for complete fee information for the items as outlined in detail below. If for some reason your firm cannot include something listed, please provide a compelling reason as to why your firm cannot include that cost in the general conditions and/or fees with your submission.

Preconstruction Fee

The preconstruction fee shall include the cost of all staff and reimbursable expenses during the preconstruction phase of the project. Preconstruction scope was identified in the RFQ/P document.

General Conditions/General Requirements

General Conditions/General Requirements shall be provided as a proposal that shall be treated as a GMP within the GMP for the scope of the work of the project. General Conditions/Requirements as a proposal amount are intended to cover any costs the CM/GC would expect to spend for general conditions on a project of this size, location and scope and the lists below are not intended to be exhaustive.

General conditions/requirements shall include the cost of staff defined below that would be normally charged to the project for the phases immediately following pre-construction through closeout and warranty:

- Project Manager(s)
- Project Engineer(s)
- Project Superintendent(s)
- M/E Coordinator
- Field Supervision
- Field Coordination
- General Foreman
- Quality Control
- Safety Coordination
- Trade Coordination
- Clerical/Secretarial
- Project Coordination
- Estimating / Cost Engineering

Please provide a backup spreadsheet showing the average hours per week, or % of FTE for each person's position that will be provided on the project, for the project.

The fee for General Conditions/Requirements shall also cover the cost of equipment, field office, tools, hauling, material, and everything listed below (if necessary) required for the CM/GC firm during the construction and closeout phases:

- Office equipment
- Printing/reproduction
- 3D programming, modeling, and BIM
- Procore or other file management software
- Phones/phone lines including mobile and land lines
- Radios
- Fuel/Maintenance
- Substance abuse testing
- Background checks
- Moving and subsistence
- Travel from home office
- Construction and project signage
- Temporary Walkways, Drives & Parking
- Progress photos and videos
- Temporary office
- Postage/delivery
- Internet service
- Vehicles/vehicle expenses and/or rental
- Submittals
- Jobsite dumpsters and disposal fees
- Office furniture
- Drinking water
- Small tools
- Forklift for loading/unloading of miscellaneous materials
- Loading & unloading of miscellaneous materials
- Jobsite cleanup (excludes final cleanup)
- Office supplies

- Office clean-up
- Temporary toilets/sinks
- First aid supplies
- IT equipment such as computers, laptops and tablets; and software including MS office suite, Procore, scheduling, pdf editing, and subcontractor pay applications (Textura or similar).
- On site printers and copiers
- Material handling
- Temporary construction fence
- On site storage for CM/GC
- Safety equipment
- Fire extinguishers
- Safety barrier / safety warnings / safety handrails
- Temporary water, including distribution and utility charges
- Temporary power for construction offices and construction operations
- Temporary heat for trailer
- Drafting and detailing
- As-built drawings
- 1 Year Warranty

Please provide a confirmation all General Conditions/Requirements are included for the scopes of work.

Clarifications & Exclusions

Provide an additional sheet or cover letter noting any clarifications, exclusions, or additions to the proposal.

G. SCORING

All Candidates start from an equal position, however the selection committee members may refer to the qualifications packages and references provided by the candidates for information.

The interview will be scored by each member of the selection committee, as follows:

Interactive Session	50 Points
Q&A	25 Points
Fee Proposal	25 Points
Total	100 Points

Rankings will be determined by a weighted score of 3 points for each 1st place vote, 2 points for each 2nd place vote and 1 point for each 3rd place vote.

Total final weighted rankings will determine the first choice Candidate.

In the event the Owner is unable to negotiate a contract and proposal with the top Candidate, the Owner reserves the right to enter into negotiations with the second place Candidate and so forth.

END– INTERVIEW INVITATION & REQUEST FOR PROPOSAL

Eagle Pool Replacement Project

Hourly Rates

Fee Workbook

9/15/2023

Firm Name

JHL Constructors, Inc.

* Please attach your firm's equipment rate sheet, including standard winter conditions items

Hourly Rates

General Laborer	\$	64
Carpenter	\$	82
Carpenter Foreman	\$	90
Senior Project Manager	\$	146
Project Manager	\$	112
Assistant Project Manager	\$	99
Senior Superintendent	\$	153
Superintendent	\$	132
Project Engineer	\$	88
Project Executive	\$	163
Construction Manager	\$	163
General Superintendent	\$	157
Assistant Superintendent	\$	104
Field Engineer	\$	84
Project Scheduler	\$	132
Safety Director	\$	108
Stormwater Manager	\$	108
Intern	\$	49
Virtual Design & Construction - Director	\$	143
Virtual Design & Construction - Manager	\$	130
Virtual Design & Construction - Specialist	\$	108
General Foreman	\$	77
Senior Preconstruction Manager	\$	141
Preconstruction Manager	\$	117
Chief Estimator	\$	115
Estimator	\$	94
Field Layout - Surveyor	\$	165
Field Layout - Field / Survey Engineer	\$	116

Notes:

1. Overtime work shall be billed at 1.5 times the hourly rates above.
2. Sunday/Holiday work shall be billed at 2 times the hourly rates above.
3. Hourly rates above include labor burden.
4. Hourly rates above are 2024 rates, rates will increase 5.0% annually year/year beginning 01/01/2025

Eagle Pool Replacement Project Fee Workbook

9/15/2023

Firm Name

JHL Constructors, Inc.

Lump Sum and Not-to-Exceed Items

Preconstruction Fee	\$20,000
General Conditions	\$715,772
2 Year Warranty, in lieu of 1 Year	\$17,850

% ITEMS

% Fee for OH / Profit (% of cost of the work)	3.95%
% for General Liability Insurance (% of cost of the work)	0.98%
% for Performance & Payment Bonds (% of cost of the work)	0.65%
% for Subcontractor Default Insurance (% of cost of the work) If applicable	N/A
% for Builder's Risk Insurance (% of cost of the work)	0.32%
% Markup fee by CMGC on Change Orders	3.95%
% Markup fee allowed by Subcontractors on Change Orders	10.00%
% Contractor/Bidding/Estimating Contingency @ Schematic Design	5.00%
% Contractor/Bidding/Estimating Contingency @ Design Development	3.00%
% Contractor/Bidding/Estimating Contingency @ Construction Documents/GMP	2.00%

General Conditions Schedule

# weeks of construction activities in which fees were based (mobilization to final completion - including demo)	48
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Eagle Pool Replacement Project

Monthly Rental Rates

9/15/2023

Classification	2024	2025
Heavy Equipment	Bill Rate	Bill Rate
13K Excavator	\$ 6,510	\$ 6,840
16K Excavator	\$ 7,350	\$ 7,720
20K Excavator	\$ 9,420	\$ 9,890
23K Excavator	\$ 11,760	\$ 12,350
24" Compaction Wheel	\$ 1,550	\$ 1,630
36" Compaction Wheel	\$ 1,550	\$ 1,630
Excavator Plate Compactor	\$ 3,230	\$ 3,390
Excavator Hydraulic Hammer/Breaker	\$ 5,780	\$ 6,070
3 Yard Front-End Wheel Loader	\$ 6,300	\$ 6,620
4 Yard Front-End Wheel Loader	\$ 9,190	\$ 9,650
5 Yard Front-End Wheel Loader	\$ 13,650	\$ 14,330
Loader Fork Set w/ 96" Carriage	\$ 740	\$ 780
3K Track Skid (High Flow)	\$ 4,390	\$ 4,610
4000 Gallon Water Truck	\$ 6,550	\$ 6,880
5000 Gallon Water Truck	\$ 7,660	\$ 8,040
Water Tower	\$ 3,010	\$ 3,160
Trailer Mounted Vacuum Excavator - High CFM	\$ 6,200	\$ 6,510
15K (Force) Sheepsfoot Compactor	\$ 3,990	\$ 4,190
30K (Force) Sheepsfoot Compactor	\$ 6,770	\$ 7,110
15K (Force) Smooth Drum Vibratory Compactor	\$ 4,080	\$ 4,280
30K (Force) Smooth Drum Vibratory Compactor	\$ 6,030	\$ 6,330
30K (Op. Weight) Track Dozer D5	\$ 9,560	\$ 10,040
50K (Op. Weight) Track Dozer D7	\$ 17,240	\$ 18,100
90K (Op. Weight) Track Dozer D9	\$ 30,350	\$ 31,870
Delivery/Pickup Metro Area (Heavy Equipment)	Actual Cost	Actual Cost
Delivery/Pickup Outside Metro Area (Heavy Equipment)	Actual Cost	Actual Cost
Classification	2024	2025
Light & Medium Equipment	Bill Rate	Bill Rate
Total Station, Robotic, Data Collector and Tripod	\$ 3,030	\$ 3,180
Theodolite w/ Tripod and Datum Rod	\$ 470	\$ 490
Survey Grade Laser w/ Tripod and Datum Rod	\$ 750	\$ 790
Office Trailer Double Wide - Up to Two 12x60	\$ 4,460	\$ 4,680
Office Trailer Single Wide - Up to 12x60	\$ 1,950	\$ 2,050
40' Storage Trailer	\$ 520	\$ 550
20' - 30' Storage Trailer/Conex	\$ 340	\$ 360
All Terrain Fork Lift - 5K Load Rating	\$ 3,030	\$ 3,180
All Terrain Fork Lift - 6K Load Rating	\$ 3,510	\$ 3,690
All Terrain Fork Lift - 8K Load Rating	\$ 4,170	\$ 4,380
All Terrain Fork Lift - 10K Load Rating	\$ 5,360	\$ 5,630
All Terrain Fork Lift - 12K Load Rating	\$ 6,280	\$ 6,590
All Terrain Fork Lift Truss Boom Attachment	\$ 710	\$ 750
All Terrain Fork Lift 2CY Trash Hopper	\$ 790	\$ 830
Warehouse Forklift - 5K - 8K Load Rating	\$ 2,890	\$ 3,030
Bob Cat / Skid Loader	\$ 3,260	\$ 3,420
Bob Cat / Skid Loader - Tracked	\$ 4,450	\$ 4,670
Skid Loader Forklift Attachment	\$ 710	\$ 750
Auger Attachment - augers not included	\$ 1,210	\$ 1,270
Skidsteer Trencher Attachment	\$ 2,050	\$ 2,150
Snow Blade for Skid	\$ 1,000	\$ 1,050
Street Sweeper - Skid Loader Attachment	\$ 1,850	\$ 1,940
Street Sweeper - Enclosed Cab	\$ 3,440	\$ 3,610
Trailer Mount Diesel Generator +/- 60KW (Excludes Fuel)	\$ 3,120	\$ 3,280

Back Hoe	\$ 3,470	\$ 3,640
Mini Excavator - 4K - 6K	\$ 2,480	\$ 2,600
Mini Excavator - 8K	\$ 2,980	\$ 3,130
Mini Excavator - 10.5K	\$ 3,490	\$ 3,660
Wheel Loader - 3.0 Yard	\$ 6,230	\$ 6,540
Walk Behind Trencher	\$ 2,080	\$ 2,180
Ride on Trencher	\$ 3,700	\$ 3,890
Jumping Jack Compactor	\$ 830	\$ 870
Plate Compactor	\$ 940	\$ 990
500G Water Trailer w/ Pump	\$ 1,210	\$ 1,270
2000G Water Truck	\$ 4,470	\$ 4,690
Electric Scissor Lift 19'	\$ 670	\$ 700
Electric Scissor Lift 26'	\$ 1,120	\$ 1,180
Electric Scissor Lift 32'	\$ 1,520	\$ 1,600
Electric Scissor Lift 32' Narrow	\$ 1,700	\$ 1,790
All Terrain Scissor Lift - 26' Engine Powered	\$ 1,640	\$ 1,720
All Terrain Scissor Lift - 32'+ Engine Powered	\$ 2,190	\$ 2,300
All Terrain Scissor Lift - 40'+ Engine Powered	\$ 2,550	\$ 2,680
Aerial Boom Lift - 40' Straight Boom	\$ 2,690	\$ 2,820
Aerial Boom Lift - 45' Articulating	\$ 2,960	\$ 3,110
Aerial Boom Lift - 60' Straight Boom	\$ 3,400	\$ 3,570
Aerial Boom Lift - 60' Articulating	\$ 3,410	\$ 3,580
Aerial Boom Lift - 80' Working Height	\$ 5,840	\$ 6,130
Aerial Boom Lift - 120' Working Height	\$ 11,380	\$ 11,950
Portable Light Tower (Diesel Powered)	\$ 1,160	\$ 1,220
Towable Air Compressor & Implements (185 CFM)	\$ 1,890	\$ 1,980
Towable Air Compressor & Implements (375 CFM)	\$ 2,360	\$ 2,480
Portable Air Compressor & Implements (Up to 14CFM)	\$ 690	\$ 720
Pneumatic Multi-Head Scabbler	\$ 2,780	\$ 2,920
Walk Behind Concrete Saw (blade wear not included)	\$ 1,640	\$ 1,720
Core Drill (bits not incl.)	\$ 1,180	\$ 1,240
Core Drill Bits	\$ 620	\$ 650
Powered Concrete "Georgia" Buggy	\$ 1,530	\$ 1,610
Concrete Scabbler Gas Powered	\$ 3,280	\$ 3,440
350,000 BTU Dual Fuel Heat Wagon	\$ 1,750	\$ 1,840
750,000 BTU Dual Fuel Heat Wagon	\$ 3,630	\$ 3,810
1,500,000 BTU Dual Fuel Heat Wagon	\$ 8,190	\$ 8,600
Utility Vehicle - Kawasaki Mule or Equal (Excludes fuel)	\$ 1,320	\$ 1,390
Work Truck - 1/2 ton (Excludes Fuel)	\$ 1,580	\$ 1,660
Sport Utility Vehicle	\$ 1,580	\$ 1,660
HD Work Truck - 3/4 and 1 ton (Excludes Fuel)	\$ 2,100	\$ 2,210
5500 Flat Bed Utility Truck or equal (Excludes Fuel)	\$ 2,630	\$ 2,760
Fuel Trailer- 500 GAL	\$ 880	\$ 920
Trash Trailer (no dump fees incl.)	\$ 1,210	\$ 1,270
Ground Thaw - Small (3K)	\$ 7,140	\$ 7,500
Ground Thaw - Large (5K/6K)	\$ 9,930	\$ 10,430
5K Gantry Crane	\$ 9,370	\$ 9,840
Delivery/Pickup Metro Area (Each Way)	\$ 290	\$ 300
Delivery/Pickup Outside Metro Area (Each Way)	\$ 630	\$ 660
Classification	2024	2025
Small Equipment & Tools	Bill Rate	Bill Rate
Gas Powered Demo Saw	\$ 900	\$ 950
Torch Set	\$ 390	\$ 410
5 Direction or Rotary Layout Laser	\$ 470	\$ 490
Builders Level w/ Tripod & Datum Rod	\$ 550	\$ 580
250A Towable Welder	\$ 970	\$ 1,020
Cutoff Torch Set - Complete	\$ 400	\$ 420
Plasma Cutter Set - Complete	\$ 1,040	\$ 1,090
Core Drill	\$ 1,080	\$ 1,130

Concrete Scabbler	\$ 2,050	\$ 2,150
Electric Concrete Vibrator	\$ 540	\$ 570
1CY Trash Cart	\$ 360	\$ 380
Centrifugal Floor Fan	\$ 570	\$ 600
36" Floor Fans	\$ 420	\$ 440
Fiberglass Step Ladder - 6'	\$ 160	\$ 170
Fiberglass Step Ladder - 8'	\$ 180	\$ 190
Fiberglass Step Ladder - 10'	\$ 210	\$ 220
Fiberglass Step Ladder - 12'	\$ 240	\$ 250
Fiberglass Step Ladder - 14'	\$ 290	\$ 300
Fiberglass Step Ladder - 16'	\$ 370	\$ 390
Fiberglass Extension Ladder - 16'	\$ 260	\$ 270
Fiberglass Extension Ladder - 20'	\$ 310	\$ 330
Fiberglass Extension Ladder - 24'	\$ 270	\$ 280
Fiberglass Extension Ladder - 32'	\$ 310	\$ 330
Fiberglass Extension Ladder - 40'	\$ 340	\$ 360
Baker / Perry Scaffolding - Complete	\$ 340	\$ 360
Electric Submersible Pump (3/4")	\$ 190	\$ 200
Electric Submersible Pump (2")	\$ 580	\$ 610
Centrifugal Gas Powered Pump 2"	\$ 670	\$ 700
Drywall Cart	\$ 210	\$ 220
Material Lift (Duct Hoist)	\$ 630	\$ 660
Pallet Jack	\$ 450	\$ 470
Portable Generator - 5KW-8KW	\$ 880	\$ 920
1/2" Electric Impact Wrench	\$ 260	\$ 270
3/4" Electric Impact Wrench	\$ 310	\$ 330
Electric Angle Drill 1/2" - 3/4"	\$ 200	\$ 210
3/4" Electric Hammer Drill	\$ 350	\$ 370
1/2" Magnetic Drill Press	\$ 500	\$ 530
1-1/2" - 1-3/4" Electric Roto Rammer	\$ 500	\$ 530
60# Electric Demo Hammer	\$ 710	\$ 750
90# Pneumatic Demo Hammer	\$ 560	\$ 590
60# Pneumatic Demo Hammer	\$ 490	\$ 510
9" Angle Grinder	\$ 240	\$ 250
6" Angle Grinder	\$ 180	\$ 190
4.5" Angle Grinder	\$ 140	\$ 150
7-1/4" Skil Saw	\$ 160	\$ 170
12"-14" Miter Saw	\$ 500	\$ 530
Pneumatic Framing Nail Gun	\$ 320	\$ 340
Pneumatic Finish Nail Gun	\$ 180	\$ 190
Portable Electric Bandsaw	\$ 390	\$ 410
Electric Reciprocating Saw	\$ 260	\$ 270
Gang Box	\$ 280	\$ 290
10" Table Saw	\$ 370	\$ 390
Fall Protection Harness	\$ 160	\$ 170
Retractable or Fixed Fall Protection Lanyard	\$ 130	\$ 140
50' Extension Cord	\$ 50	\$ 50
100' Extension Cord	\$ 70	\$ 70
Powder Actuated Fastener Tool	\$ 290	\$ 300
Pressure Washer	\$ 1,000	\$ 1,050
Floor Maintainer / Buffer / Sander	\$ 550	\$ 580
Walk Behind Floor Scrubber	\$ 1,980	\$ 2,080
Silica Compliant HEPA Vacuum System	\$ 760	\$ 800
Concrete Blankets	\$ 150	\$ 160
Snow Removal Blankets	\$ 680	\$ 710
Standard Tool Kit - wormdrive, cordless pack, bulldog, belt sander, orbital sander, sawzall, 4' level, PLS laser, wrenches, socket set, grease gun	\$ 1,580	\$ 1,660
4 Pack of 2 Way Radios	\$ 630	\$ 660
Tracking Mat	\$ 1,940	\$ 2,040

Delivery/Pickup Metro Area	\$	290	\$	300
Delivery/Pickup Outside Metro Area	\$	630	\$	660

Notes:

1. Hourly rates above are 2023 rates, rates shall increase 5.0% annually year/year beginning 01/01/2024
2. Rates exclude maintenance and fuel, unless specifically noted otherwise.
3. Equipment usage in excess of 170 hours in a calendar month will result in additional prorated charges.



Eagle Pool Replacement Project

Eagle, CO
General Conditions
September 15, 2023

Construction Start June 1, 2024
Construction Finish May 1, 2025

Days 334
Weeks 48
Months 10.98

Description	Quantity	Units	/Unit	Labor Rate	Total Labor	Equip Rate	Total Equip	Sub Unit	Sub Total	Total	Notes
Senior Superintendent	48	Wks	40	\$153.00	\$292,011	\$0.00	\$0	\$0.00	\$0	\$292,011	
Assistant Superintendent	48	Wks	0	\$104.00	\$0	\$0.00	\$0	\$0.00	\$0	\$0	Not Required
Project Manager	48	Wks	20	\$112.00	\$106,880	\$0.00	\$0	\$0.00	\$0	\$106,880	
MEP Coordinator	48	Wks	0	\$118.00	\$0	\$0.00	\$0	\$0.00	\$0	\$0	Not Required/By Trades
Project Engineer	48	Wks	24	\$85.00	\$97,337	\$0.00	\$0	\$0.00	\$0	\$97,337	
Field Engineer	48	Wks	0	\$88.00	\$0	\$0.00	\$0	\$0.00	\$0	\$0	Not Required
Safety Director	48	Wks	2	\$108.00	\$10,306	\$0.00	\$0	\$0.00	\$0	\$10,306	
Project Scheduler	48	Wks	0.5	\$0.00	\$0	\$0.00	\$0	\$132.00	\$3,149	\$3,149	
General Foreman	48	Wks	0	\$77.00	\$0	\$0.00	\$0	\$0.00	\$0	\$0	Direct Cost of Work
Field Office Equipment	11	Months	1	\$0.00	\$0	\$0.00	\$0	\$150.00	\$1,647	\$1,647	
Printing and Reproduction	11	Months	1	\$0.00	\$0	\$0.00	\$0	\$170.00	\$1,867	\$1,867	
BIM/VDC Coordination	0	Months	0	\$0.00	\$0	\$0.00	\$0	\$0.00	\$0	\$0	By Trades
Mobile Phones	11	Months	2.1	\$0.00	\$0	\$0.00	\$0	\$115.00	\$2,652	\$2,652	
Two-Way Radios	1	LS	1	\$0.00	\$0	\$0.00	\$0	\$750.00	\$750	\$750	
Fuel/Maintenance for Equipment	11	Months	1	\$0.00	\$0	\$0.00	\$0	\$1,500.00	\$16,471	\$16,471	
Background Checks/Substance Testing	1	LS	1	\$0.00	\$0	\$0.00	\$0	\$1,000.00	\$1,000	\$1,000	
Construction & Project Signage	1	LS	1	\$0.00	\$0	\$0.00	\$0	\$3,500.00	\$3,500	\$3,500	
Temporary Walkways, Drives & Parking	0	LS	0	\$0.00	\$0	\$0.00	\$0	\$0.00	\$0	\$0	Direct Cost of Work
Progress Photos & Videos	1	LS	1	\$0.00	\$0	\$0.00	\$0	\$0.00	\$0	\$0	Included No Cost
Office Trailer - Single Wide (monthly rental)	11	Months	1	\$0.00	\$0	\$1,650.00	\$18,118	\$0.00	\$0	\$18,118	
Office Trailer Set-up / Take Down	1	LS	1	\$0.00	\$0	\$0.00	\$0	\$5,500.00	\$5,500	\$5,500	
Temporary Storage Trailer (monthly rental)	11	Months	1	\$0.00	\$0	\$350.00	\$3,843	\$0.00	\$0	\$3,843	
Storage Trailer Set-up / Take Down	1	LS	1	\$0.00	\$0	\$1,200.00	\$1,200	\$0.00	\$0	\$1,200	
Postage and Delivery Fees	11	Months	0	\$0.00	\$0	\$0.00	\$0	\$50.00	\$549	\$549	
Job Site Internet Service (monthly service)	11	Months	1	\$0.00	\$0	\$0.00	\$0	\$550.00	\$6,039	\$6,039	
PM Vehicle	11	Months	0.5	\$0.00	\$0	\$1,250.00	\$6,863	\$0.00	\$0	\$6,863	
PE Vehicle	11	Months	0.6	\$0.00	\$0	\$650.00	\$4,282	\$0.00	\$0	\$4,282	
Sup. Vehicle	11	Months	1	\$0.00	\$0	\$1,250.00	\$13,726	\$0.00	\$0	\$13,726	
PM Vehicle Fuel and Maintenance	11	Months	0.5	\$0.00	\$0	\$0.00	\$0	\$750.00	\$4,118	\$4,118	
Assist PM & PE Vehicle Fuel and Maintenance	11	Months	0.6	\$0.00	\$0	\$0.00	\$0	\$500.00	\$3,294	\$3,294	
Sup. Vehicle Maintenance Fuel and Maintenance	11	Months	1	\$0.00	\$0	\$0.00	\$0	\$750.00	\$8,236	\$8,236	
Submittals	1	LS	1	\$0.00	\$0	\$0.00	\$0	\$0.00	\$0	\$0	Included No Cost
Dumpsters & Disposal Fees	11	Months	1	\$0.00	\$0	\$0.00	\$0	\$750.00	\$8,236	\$8,236	
Office Furniture	1	LS	1	\$0.00	\$0	\$0.00	\$0	\$0.00	\$0	\$0	Included No Cost
Drinking Water	11	Months	0	\$0.00	\$0	\$0.00	\$0	\$70.00	\$769	\$769	
Small Tools	11	Months	1	\$0.00	\$0	\$0.00	\$0	\$350.00	\$3,843	\$3,843	
Forklift for Misc. Materials	2	Months	1	\$0.00	\$0	\$5,495.00	\$10,990	\$0.00	\$0	\$10,990	
Jobsite Cleanup (Excluding Final Clean)	48	Wks	8	\$64.00	\$24,430	\$0.00	\$0	\$0.00	\$0	\$24,430	
Office Supplies & Cleaning	11	Months	1	\$0.00	\$0	\$0.00	\$0	\$200.00	\$2,196	\$2,196	
Portable Toilets	11	Months	4	\$0.00	\$0	\$0.00	\$0	\$275.00	\$12,079	\$12,079	
First Aid Supplies	11	Months	1	\$0.00	\$0	\$0.00	\$0	\$50.00	\$549	\$549	
IT Equipment & Software	11	FTE/Month	2.1	\$0.00	\$0	\$0.00	\$0	\$500.00	\$11,530	\$11,530	
Printers and Copiers	11	Months	1	\$0.00	\$0	\$0.00	\$0	\$125.00	\$1,373	\$1,373	
Material Handling	0	Months	0	\$0.00	\$0	\$0.00	\$0	\$0.00	\$0	\$0	Included with Forklift
Temporary Fencing (Set up/Removal)	1	LS	1	\$0.00	\$0	\$0.00	\$0	\$5,541.00	\$5,541	\$5,541	
Temporary Fencing (Monthly Rental)	11	Months	1	\$0.00	\$0	\$0.00	\$0	\$497.00	\$5,457	\$5,457	
On Site Storage for CM/GC	11	Months	0	\$0.00	\$0	\$0.00	\$0	\$0.00	\$0	\$0	Included with Storage Trailer
Safety Equipment	1	LS	1	\$0.00	\$0	\$0.00	\$0	\$4,500.00	\$4,500	\$4,500	
Fire Extinguishers	10	Each	1	\$0.00	\$0	\$0.00	\$0	\$75.00	\$750	\$750	
Safety Barriers/Warning/Handrails	1	LS	1	\$0.00	\$0	\$0.00	\$0	\$2,500.00	\$2,500	\$2,500	
Temporary Water	1	LS	1	\$0.00	\$0	\$0.00	\$0	\$2,750.00	\$2,750	\$2,750	
Temporary Power For Construction	11	Months	1	\$0.00	\$0	\$0.00	\$0	\$350.00	\$3,843	\$3,843	
Temporary Heat for Trailer	11	Months	1	\$0.00	\$0	\$0.00	\$0	\$100.00	\$1,098	\$1,098	
Drafting & Detailing	0	LS	0	\$0.00	\$0	\$0.00	\$0	\$0.00	\$0	\$0	Not Required
As-Built Drawings	0	LS	0	\$0.00	\$0	\$0.00	\$0	\$0.00	\$0	\$0	Included No Cost
One Year Warranty	0	LS	0	\$0.00	\$0	\$0.00	\$0	\$0.00	\$0	\$0	By Trades
TOTALS					\$530,965		\$59,023		\$125,785	\$715,772	Notes

Weekly Cost	\$11,128	\$1,237	\$2,636	\$15,001
Monthly Cost	\$48,354	\$5,375	\$11,455	\$65,185



SEPTEMBER 1, 2023

EAGLE POOL REPLACEMENT PROJECT

RFQ/P Response for CM/GC Services





A team of driven employees thriving in the relentless pursuit of exceptional experiences and enduring relationships.

INTEGRITY

There is a right way to do business and we never deviate.

PASSION

We love what we do and this fuels us to go beyond the expected. We have a contagious enthusiasm about construction, people, and our Colorado community.

COMMITMENT

We are loyal to our clients, partners, and employees. As stewards for our clients, we simply will not be outworked in achieving the project vision.

PERFORMANCE

We are focused on operational excellence and delivering with absolute reliability.

OUR PROMISE

Doing The Right Thing - Always



TABLE OF CONTENTS



click section to navigate

September 1, 2023

9100 E. Panorama Drive, Suite 300
Englewood, CO 80112

jhlinfo@jhlconstructors.com



Exhibit C

P | 303.741.6116
F | 303.741.2785



jhlconstructors.com

Ms. Melissa Daruna, Assistant Town Manager
200 Broadway
Post Office Box 609
Eagle, Colorado 81631

Dear Ms. Daruna, and Selection Committee Members,

Everything aquatic in Colorado is important to future of our State. Whether it's recreating at a pool, or supplying clean drinking water to our communities, JHL understands water infrastructure and it's inherent value to so many aspects of a community. As you review our proposal, we would like to highlight a few differentiators that we believe make JHL the best fit to be your partner.

Team Aquatic Experience. With a wealth of expertise in both indoor and outdoor pool design and construction, our team members have consistently delivered exceptional results. Our portfolio showcases a diverse range of achievements, including historic pool renovations, competition pools, elaborate spa renovations and more. Our commitment to innovation, attention to detail, and a proven track record make us the ideal partner for translating your vision into a remarkable reality.

Team Member Experience with Mountain Recreation. Our firsthand knowledge of these environments allows us to develop projects that prioritize safety, sustainability, and the preservation of natural landscape. Collectively, our proficiency encompasses building versatile indoor and outdoor facilities that seamlessly blend with the mountain terrain. This unique expertise positions us as the ideal candidate for the Eagle Pool project where we would build a cutting-edge facility that accounts for future expansions, while honoring the spirit of mountain adventure, offering a transformative experience that celebrates the Town of Eagle.

Current Experience with DPM. Through the work of multiple complex mountain addition and renovation projects, we've fortified our partnership with Dynamic Project Management (DPM) into a trusted and fun working relationship through strong collaboration during complex logistics and planning. While working closely, we've a shared commitment to excellence and honed our ability to swiftly analyze challenges and collectively cultivate effective solutions that uphold project integrity. This seamless collaboration underscores our combined unwavering dedication to delivering outcomes that exceed expectations, transforming obstacles into stepping stones toward success.

Colorado Based, Colorado Focused. Being rooted in Colorado isn't just a location; it's a deep-seated dedication to building Colorado's future. Our state's diverse landscapes, from its majestic mountains to its vibrant communities, inspire us to craft projects that harmonize with their surroundings. With a strong emphasis on aquatics and mountain recreation, our team members possess a unique bond with these environments. By infusing our passion for construction with Colorado's distinctive communities, we're shaping not only physical structures but also the experiences and legacies that will honor this community.

JHL is asking to be your partner because we are committed to working harder than our competition, dedicated to surpassing expectations and delivering unparalleled results. If you have any questions, please do not hesitate to reach out to our team.

Sincerely,

Adam Fernan / Project Executive
303.901.6843 / afernan@jhlconstructors.com



01. Firm Information

01. FIRM INFORMATION

Provide a brief history of the firm

COLORADO BASED, COLORADO FOCUSED

JHL Constructors is a Colorado company, with over 36 years in business. We are true partners to our clients, design teams, subcontractors, and our Colorado community, and are a family of driven employees working in relentless pursuit of quality and exceptional experiences. Above all, JHL thrives on long-term relationships, integrity, and always doing the right thing.

JHL has created a team of employees with the education and experience capable of building diverse and complex projects. Our staff of 280+ is a talented group of over-achievers, driving each other's success.

Our employees are highly engaged and the company has been consistently named by the Denver Business Journal as a 'Best Place To Work' over the past five years and the 2016, 2018, 2019, and 2021 'General Contractor of the Year' by the American Subcontractors Association of Colorado. In 2022 JHL was awarded General Contractor of the year by ENR.

Number of years in business

36+ years in business



Location of office servicing

9100 E. Panorama Drive, Suite 300, Englewood, CO 80112

Provide a statement for the maximum dollar value in which your firm can be bonded, and the amount currently bonded with confirmation statement from bonding company

JHL is a financially strong and stable company with a bonding capacity in excess of \$200 million per project, with an aggregate in excess of \$1 billion. A letter confirming this capability is enclosed. Please reference [Page 07](#) for our Bonding Capacity.

Provide your firm's EMR

YEAR	2022	2021	2020	2019	2018
EMR	0.76	0.69	0.65	0.64	0.65

Information on any claims or lawsuits your firm has had in the past 10 years.

None. JHL is committed to preventing litigation, arbitration, and all conflicts with our clients from occurring. We do this by choosing the right team of subcontractors, planning ahead, having open communication with all parties, and being a strong leader. Should conflict arise, we will solve it quickly and bring about the best solution for all parties involved.

Confirmation your firm will include all items outlined in the Scope of Work in Section C.

JHL confirms that we will include all items outlined in the Scope of Work in section C.

Indicate if your team meets the following Insurance requirements. Please provide an Acord Format Insurance Certificate showing existing limits.

JHL complies with all insurance requirements set forth in the RFQ/P. A letter from our insurance carrier is provided on [Page 07](#).

BOND CAPACITY



September 1, 2023

RE: JHL Constructors, Inc.

To Whom It May Concern:

Our agency has been associated with the principals of JHL Constructors, Inc. for over fifteen years. We have found the owners and staff to be individuals of high integrity with a solid knowledge of the construction industry. They have the well-deserved reputation of producing a quality product in a timely and cost-effective manner.

Surety bonds for JHL Constructors, Inc. are written through Western Surety Company. They are a Department of the Treasury listed surety with an AM Best rating of A XI, and licensed for business in Colorado. While no specific limitations have been placed on JHL's bond program, they have been approved to undertake single projects in excess of \$200 million with an aggregate program in excess of \$1 billion. These are merely working guidelines and do not represent a maximum bonding capacity.

Approval and release of all bonds is based on the size, type, location of project, as well as a favorable review of plans, specification, financing, contract, bond forms, and JHL's current work program. It is understood, of course, that any arrangement for bonding is a matter between JHL Constructors, Inc., Western Surety Company, and Moody Insurance Agency, Inc., as their surety agent. We assume no liability to third parties, or to you, if for any reason we do not execute a requested bond.

We are pleased to recommend JHL Constructors, Inc. to you. Should you require additional information, on this valued client, please feel free to contact us.

Sincerely,

Evan Moody
Chief Executive Officer

CC: JHL Constructors, Inc.
Western Surety Company

8055 East Tufts Avenue, Suite 1000
Denver, CO 80237 | 303.824.6600

604 25 Road
Grand Junction, CO 81502 | 970.248.8300

102 South Tejon, Suite 1100
Colorado Springs, CO 80903 | 719.749.1222

moodyins.com

INSURANCE

ACORD CERTIFICATE OF LIABILITY INSURANCE										DATE (MM/DD/YYYY) 02/17/2023	
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PRODUCER Moody Insurance Agency, Inc. 8055 East Tufts Avenue Suite 1000 Denver, CO 80237						CONTACT NAME: Leigh Pullen PHONE (A/C No. Ext.): (303) 824-6600 E-MAIL: leigh.pullen@moodyins.com ADDRESS: TAX (A/C No.): (303) 370-0118					
INSURED JHL Enterprises, Inc., DBA: JHL Constructors, Inc. 9100 E. Panorama Drive Suite 300 Englewood, CO 80112						INSURER(S) AFFORDING COVERAGE INSURER A: Travelers Indemnity Co of Connecticut 25682 INSURER B: Travelers Indemnity Company 25658 INSURER C: Travelers Property Casualty Co of America 25674 INSURER D: Pinnacol Assurance 41190 INSURER E: INSURER F:					
COVERAGES CERTIFICATE NUMBER: 23/24 Master REVISION NUMBER:											
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.											
LINE	TYPE OF INSURANCE	INSURANCE	POLICY NUMBER	POLICY PERIOD (MM/DD/YYYY)	POLICY EXPIRATION (MM/DD/YYYY)	LIMITS					
A	☒ COMMERCIAL GENERAL LIABILITY ☒ CLAIMS-MADE ☒ OCCUR Ded. \$50,000 PD ☐ GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC ☐ OTHER:		DTC08380L2061CT23	01/01/2023	01/01/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPOP AGG \$ 2,000,000					
B	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY ☐ OTHER:		8103L1209422326G	01/01/2023	01/01/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$					
C	☒ UMBRELLA LIAB ☒ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$ 10,000		CUP9M5655202326	01/01/2023	01/01/2024	EACH OCCURRENCE \$ 20,000,000 AGGREGATE \$ 20,000,000 \$					
D	☒ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A	4079421	04/01/2022	04/01/2023	☒ PER STATUTE ☐ OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000 Leased/Rented Equip \$ 1,000,000 Scheduled Equipment 4,388,785 Installation Floater 250,000					
E	Inland Marine		QT6609472B268TIL23	01/01/2023	01/01/2024	Leased/Rented Equip 4,388,785 Installation Floater 250,000					
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 191, Additional Remarks Schedule, may be attached if more space is required)											
CERTIFICATE HOLDER *** For Information Only ***						CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 					

ACORD 25 (2016/03)

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02. Qualifications of Proposed Team

02. QUALIFICATIONS OF PROPOSED TEAM

Provide organizational chart for your proposed team, including roles and responsibilities for each team member

The Town of Eagle will be successful on Eagle Pool Replacement project with a team driven by collaboration, strong leadership, and proven experience. Together, we strive to deliver solutions that will exceed your expectations. Our Project Manager, Diego is familiar with the conditions that come with working in Eagle County and the local subcontractor market. Greg Lehew is one of the most talented and results-driven Superintendents you will come across, the bulk of his experience has been in complex projects in remote locations. With Greg and Dave Gobbo, who has built more pools in Colorado than any General Superintendent, joining forces they will anticipate and develop a plan to mitigate any risk that may arise.

WHY THIS JHL TEAM?

- 1 A TEAM of True Builders.** Equipped with the most current, in-depth knowledge of both pool and mountain construction, this team brings a balance of mountain and aquatics experience having completed numerous projects from ground up aquatics facilities to complex, multi-phased addition renovations.
- 2 Far Reaching Subcontractor Relationships.** This team has over 100 years of combined experience working in the Colorado Mountain Construction market. Over that time these individuals have established strong relationships with Subcontractors and aquatics experts allowing us to draw in more subcontractor participation, more competitive pricing and deliver a greater value to the Town of Eagle.
- 3 A Proven Track Record of Absolute Reliability.** "Time is Money" and that is more true in today's economic environment than ever before. From the speed of buyout and contracts, submittals and material procurement to the quality and speed of construction on-site, this Team has a well-developed plan to **get started early** to deliver your project efficiently, maximizing the taxpayers dollar.



ROLES & RESPONSIBILITIES

TEAM MEMBER	TEAM MEMBER RESPONSIBILITIES	
Adam Fernan Project Executive	• Team lead and Primary Point of Contact • Ultimate responsibility for success and optimizing Town of Eagle's funds • Manage client relationships and ensure expectations are exceeded • Set overall budget, schedule, and phasing strategies • Customer centric with a focus on the Town and Community customer experience	• Maintain strategic oversight of the project through completion and beyond • Constructability analysis and life-cycle costing • Identify long-lead times and advance procurement strategies • Establish GMP
Mario Cappella Vice President	• Serves as JHL's prime executive representative • Contracting and senior leadership • Ensures team has all necessary resources	• Champions collective team alignment • Facilitates team partnering • Project level implementation of JHL best practices
Diego Rodriguez Project Manager	• Construction phase management lead • Support preconstruction team • Drive procurement process and execute early release strategies • Remove potential project schedule roadblocks	• Review all trade contracts • Drive JHL's solutions-oriented approach to field operations • Cost control / billings • Facilitate OAC meetings • Constructability analysis and drawing detail review
Dave Gobbo General Superintendent	• Drive close collaboration with the aquatics/pool design team • Provide construction operations input at all stages • Facilitate master schedules utilizing LEAN principals • Develop and detail work plans • Provide craft labor and equipment resources	• Champion and enforce JHL's Culture of Safety • Drive trade partner planning & accountability • Assist with AHJ engagement of all stages of work • Consistent on-site during construction • Drive and deliver JHL's Culture of Quality • Constructability analysis and drawing detail review
Greg Lehew Superintendent	• Overall site/building construction management of the project • Detail and drive occupied site logistics plans • Maintain overall and short interval project schedules • Integrate with on-site staff to coordinate with daily facility activities	• Determine manpower and equipment needs • Coordinate and manage subcontractors • Drive and deliver JHL's Culture of Quality • Champion and enforce JHL's Culture of Safety • Constructability analysis and drawing detail review
David Hissem Preconstruction Manager	• Preconstruction lead • Oversee preconstruction efforts • Cost estimating at all design development phases • Value analysis of alternate systems / materials • Develop and manage trend logs	• Conduct pre-bid conferences with trades • Constructability analysis, review construction assemblies and life-cycle costing • Identify long-lead items / pre-ordering • Establish GMP

ADAM FERNAN

Project Executive **Main Point of Contact**

WHY ADAM?

- **Extensive experience with trade partners on remote projects in the Mountains**
- Effective leader with strong communication skills and never loses sight of owner priorities
- Significant experience in the construction of Hospitality Projects including, pools, spas, hot tubs, and hospitality venues
- Extensive experience in occupied, high-profile facilities and campuses



roll-over to see more

SELECT RELEVANT PROJECT EXPERIENCE

- **The Inn at Death Valley Death Valley, CA**
Renovation of historic 1929 pool, New spa and wellness buildings & facilities, new retail/food/beverage facilities, new wedding and event venue, full renovation of historic 1927 Inn along with new dining and kitchen facilities, new maintenance building, and employee staff dining facilities.
- **Castle Pines Golf Course Castle Rock, CO**
Exclusive nationally recognized golf club facility including pro shop, extensive world-renowned locker rooms, elaborate spa and hot tub with water features and wellness center, weight and exercise facility, wine cave and seller along with an iconic 110'-0 tall stone clad tower.
- **Garden of the Gods Club Spa and Wellness Center Colorado Springs, CO**
Spa, resort, and conference center including, steam rooms, locker and fitness facilities.
- **East Grand Career & Technical Education Center Granby, CO**
New 11,000 SF Career Center for Middle Park High School
- **Granby Elementary School Granby, CO**
Approximately 70,000 SF pk-5 replacement school on newly acquired district property near the middle school
- **Grandview High School Aurora, CO**
Site development, multi-level, kitchen and gymnasium, including competition pool with diving well
- **East High School Pueblo, CO**
185,000 SF replacement high school with multiple phases, 40-acre site development

EXPERIENCE

- **30+ Years of Experience**
- Bachelor of Science
Construction Management
Colorado State University

REFERENCES

- Amy Hurtig-Smith / HGF Architects / 719.569.5315
- Gregory Friesen / CSNA Architects / 719.473.7225
- Robert Walter / Alberta Development Partners / 720.245.0213

MARIO CAPPELLA

LEED AP
Vice President

WHY MARIO?

- **Career focused on community facilities**
- Committed to ensuring an outstanding client experience
- Past experience building pools with Dave Gobbo



roll-over to see more

SELECT RELEVANT PROJECT EXPERIENCE

- **Denver Academy Performing Arts Center Denver, CO**
New addition to include 200-seat theater, classrooms and support spaces
- **East Grand Career & Technical Education Center Granby, CO**
New 11,000 SF Career Center for Middle Park High School
- **Granby Elementary School Granby, CO**
Approximately 70,000 SF pk-5 replacement school on newly acquired district property near the middle school
- **Evergreen High School Evergreen, CO**
Multi-phased renovation of the occupied high school; HVAC system replacements, ADA upgrades, new flooring, secure vestibule and lighting retrofit. Exterior improvements included grading for improved drainage, new retaining walls and replacement of the existing parking lots
- **Veteran's Memorial Aquatics Thornton, CO**
52,000 SF State-of-the-art competitive aquatic center for athletes, students, and staff from Adams 12 Five Star School District
- **Carmody Recreation Center Lakewood, CO**
19,400 SF of renovation with new main entry addition. Scope included underpinning existing foundations enabling the construction of the new addition.
- **Witlock Recreation Center Lakewood, CO**
New 43,000 SF Recreation Center with Aerobics rooms, Athletic courts, Cardio Room, 3 Gymnasiums, Racquetball Courts, Weight Room and Warm Water Therapy Pool

EXPERIENCE

- **22+ Years of Experience**
- Bachelor of Science
Construction Management
Colorado State University

REFERENCES

- Michael Hall / Anser Advisory / 720.203.5181
- Sarah Grobbel / Cherry Creek School District / 720.936.1945
- Bryan Zwisler / St. Vrain Valley School District / 303.870.2560

DIEGO RODRIGUEZ

Project Manager

WHY DIEGO?

- **Eagle county resident from 2006 - 2018**
- Detail oriented approach that drives results
- Experience on occupied campuses
- Prioritized safety inspections



roll-over to see more

SELECT RELEVANT PROJECT EXPERIENCE

- **Dillon Amphitheater Dillon, CO**
New 10,000 SF outdoor venue
- **Denver Academy Performing Arts Center Denver, CO**
New addition to include 200-seat theater, classrooms and support spaces
- **Douglas County School District CTE Denver, CO**
Improvements to Career and Technical Education Spaces (CTE) across eight high school campuses
- **Aurora Highlands Tributary and Infrastructure Aurora, CO**
Master plan development infrastructure; 200 acres earthwork; 5 bridge structures; 5 miles utilities
- **Metro Wastewater Support Facility Denver, CO**
New 23,000 SF operations office; new 28,000 SF biosolids/fleet services building, and renovations to the existing warehouse and maintenance buildings; \$43M
- **Transportation Terminal, Boulder Valley School District Boulder, CO**
45,000 SF new operations headquarters
- **CDOT US 36 Bridge Replacement Last Chance, CO**
Two 160' span bridges between Anton and Last Chance

EXPERIENCE

- **8+ Years of Experience**
- Bachelor of Science
Construction Management
Colorado Mesa University

REFERENCES

- Dan Burroughs / Town of Dillon /
970.262.3405
- Orin Padgett / Metro Wastewater
Reclamation District /
303.358.0476
- Katy Vandenberg / Stantec /
303.291.2144

DAVE GOBBO

General Superintendent

WHY DAVE?

- **Aquatics / recreation center expert**
- Lean and pull planning expert
- Past experience building pools with Mario Cappella
- Vast experience building in the mountains of Colorado



roll-over to see more

SELECT RELEVANT PROJECT EXPERIENCE

- **Town of Gypsum Recreation Center Gypsum, CO**
Local community hub with amenities including fitness floor, indoor pool, locker room with showers, sauna, gymnasium & gymnastics
- **Veteran's Memorial Aquatics Thornton, CO**
52,000 SF State-of-the-art competitive aquatic center for athletes, students, and staff from Adams 12 Five Star School District
- **Carla Madison Recreation Center Denver, CO**
New recreation center, 69,070 sf including an eight lane pool, leisure pool, cardio weight room, full-size basketball court; the facility is Denver's largest community recreation center
- **Aurora Central Recreation Center Aurora, CO**
60,285 sf new recreation center featuring aquatics, gymnasium, fitness area, teaching kitchen, party rooms, multi-purpose rooms, group exercise rooms, offices and locker rooms
- **Estes Valley Community Center Estes Park, CO**
53,000 SF multi-generational space; includes senior services, library resources, family and youth amenities, meeting rooms, family recreation and aquatics
- **Parker Recreation Center Expansion Parker, CO**
Occupied renovation for 42,707 sf facility, adding 32,000 sf to the original space, included demolition of exterior walls in the existing natatorium and removal of the existing ballasted roofing
- **Paul C. Beck Recreation Center & Springhill Park Renovations Aurora, CO**
Overhaul of the rec center added a total of 3,800 sf for a total of 57,211 sf

EXPERIENCE

- **34+ Years of Experience**
- OSHA 30-Hour Training
- CPR/AED/First Aid Training
- ASHE Trained
- Asta Training
- Safety Operation 1, 2, & 3

REFERENCES

- Jeff Shroll / Eagle County Government / 970.328.8604
- Paul Wember / Wember Inc. / 303.378.4130
- Gudmundur Jonsson / Populous / 303.382.2780

GREG LEHEW

Superintendent

WHY GREG?

- Experienced leadership supporting preconstruction and driving construction
- Proven track record for delivering projects on time
- Solutions orientated to make his projects a success



roll-over to see more

SELECT RELEVANT PROJECT EXPERIENCE

- **The Pinery Clubhouse & Pool Parker, CO**
New addition and renovation, including locker room upgrades, new outdoor leisure pool and water slide.
- **Blackstone Country Club Aurora, CO**
New two-story, 35,000 SF, English Tudor-inspired clubhouse with tennis courts, fitness rooms, locker rooms and outdoor leisure pool
- **Cherry Creek Country Club Denver, CO**
New golf clubhouse with fitness rooms, locker rooms, outdoor leisure pool and spa
- **Grand Peak Academy Colorado Springs, CO**
New 65,000 SF school campus to accommodate an additional 100 students; featuring a regulation-size middle school gym; Phase II expansion project includes an addition of 20,000 SF.
- **Monument Academy Monument, CO**
New 63,000 SF, two-story building, gymnasium, locker rooms, classrooms, offices, workout space, small kitchen and common areas
- **Julesburg PK-12 Julesburg, CO**
New 80,000 SF Design-Build school; facility will be built to CO-CHPS Verified Leader Certifications
- **Global Village Academy Northglenn Thornton, CO**
New 68,000 SF campus including classrooms, art rooms, technology lab, music, library, and administration area. Phase 1 site work is anticipated to include primary play areas with a small grass play area.

EXPERIENCE

- **46+ Years of Experience**
- Asbestos Containing Material Inspector and Supervisor
- CPR/AED/First Aid Training
- OSHA 30-hour
- CDOT Storm Water Certification
- Certified Operator

REFERENCES

- Nicole Caldwell / Global Village Academy North / 303.446.7100
- Christianna Herrera / Monument Academy (formerly with) / 719.432.6765
- Kurt Connolly / Anser Advisory / 303.810.5054

DAVID HISSEM

Preconstruction Manager

WHY DAVID?

- **Extensive mountain and aquatics experience**
- Skilled at developing partnerships through a collaborative approach
- Provides optimum design value through scope analysis and trade relationships



roll-over to see more

SELECT RELEVANT PROJECT EXPERIENCE

- **Louisville Recreation and Senior Center & Memory Square Pool Louisville, CO**
130,000 SF occupied renovation and addition; new lap pool, zero entry leisure pool, lazy river, slide, play features, family locker rooms, fitness rooms, and turf gym
- **210 and 255 St. Paul Denver, CO**
Design/build luxury apartments in Cherry Creek North - 210 (8-stories), 255 (7-stories): 2-story sub-terranean garage, infinity structure, rooftop amenity deck with pool and spa
- **9th & Colorado Block 7 East Denver, CO**
Market Rate apartments; 8-story cast-in place concrete and infinity structure with amenity deck and heated in-ground pool and hot tub in the courtyard
- **Huron Landing Breckenridge, CO**
3-Story wood framed employee housing
- **UCCS Village at Alpine Valley Colorado Springs, CO**
Design/build 210,000 SF total; 3 cast-in-place concrete frame student housing towers (5 and 6 stories) and 2-story dining hall
- **BP Lower 48 Denver, CO**
138,000 SF high end office build-out for British Petroleum. LEED Certified with community room, cafeteria, X Stair and nest
- **Anschutz Student Center Lakewood, CO**
51,145 SF Student Center including dining hall, bookstore, amphitheater, fitness center, student organization offices, game room, and coffee shop

EXPERIENCE

- **13+ Years of Experience**
- Bachelor of Science
Construction Management
Colorado Mesa University

REFERENCES

- Tom Svoboda / Schemmer /
402.493.4800
- Earl Webster / ICI / 620.635.5091
- Shane Hutson / Pesado
Construction / 210.669.0834



HEATHER STRONG SAFETY MANAGER

Years of Experience: 20+ Years

Heather is one of only a few people nationally that has completed every certification offered by the OSHA Training Institute (OTI) at Rocky Mountain Education Center (RMEC). Her responsibilities are focused on the safety of students/staff/community members, subcontractors, and JHL staff. She assists project teams with establishing and maintaining site specific safety plans, conducts safety meetings and inspections, keeps employees up to date with training, coordinates personal protective equipment and first aid supplies, and maintains safety records and reports.



BOBBY CHILDERS DIR. OF VIRTUAL DESIGN & CONSTRUCTION

Years of Experience: 16+ Years

Bobby graduated from the University of Minnesota Twin Cities with a Bachelor of Science in Architecture and a Master of Architecture. Bobby works with all project teams to integrate VDC technologies and BIM to improve project performance. He is a licensed Architect and FAA Certified Drone Pilot. Bobby is currently on the CME Advisory Board for University of Colorado Denver. In addition, he is a frequent lecturer at the University of Colorado, College of Architecture and Planning, as well as Colorado State University's Construction Management program. At the beginning of the project, we can assess the level of VDC and BIM that the collective team deems beneficial.



JOCELYN TAYLOR COMMUNITY OUTREACH

Years of Experience: 8+

Jocelyn's efforts will be focused on community outreach support and keeping everyone informed throughout construction. She will work with the Town of Eagle, Recreation District and project team to support the outreach goals as well as create and update a project specific website to keep the neighborhood informed.

A photograph of a modern multi-story apartment building at dusk. The building has a mix of blue and grey siding, with many windows and balconies illuminated from within. In the foreground, there is a swimming pool with a metal ladder, surrounded by a paved deck. To the right of the pool, there are several lounge chairs and two large patio umbrellas. The sky is a deep blue with some light clouds. The overall scene is a high-quality architectural rendering of a residential development.

03. Similar Project Experience



DILLON AMPHITHEATER

Dillon, CO

This project included a complete overhaul of the Dillon Amphitheater located on beautiful Lake Dillon. You are welcomed into the venue with a new walking area and entry plaza followed by a new concessions building, a new bathroom building, two new green rooms and a larger stage platform complete with state of the art sound system and stage lighting. The new amphitheater features lush grass areas for seating, framed by gunite retaining walls with an architectural finish to be made to look like natural stone. With one of the most beautiful venue backdrops imaginable, with the sun setting behind Mount Buffalo, the project re-invigorated this community amenity for the Town of Dillon and greater Summit County area into one of the premier outdoors venues in the region.

WHY RELEVANT?



- Mountain Construction
- CM/GC
- Extensive Earthwork and Utility Scope
- Complex Logistics Planning

TEAM MEMBERS INVOLVED



**Mario
Cappella**



**Diego
Rodriguez**



**Heather
Gutierrez**

OWNER

Town of Dillon
Dan Burroughs
970.262.3405

ARCHITECT

Perkins + Will
Steve King
303.308.0200

CONTRACT AMOUNT

\$10M

SCHEDULE

July 2017 - June 2018



GREYHOUND MULTIFAMILY DEVELOPMENT

Denver, CO

This two building, three-story zero lot line, market rate residence is set to be located in one of Denver's oldest and most diverse residential areas: Curtis Park. This project consists of construction of three-story wood framed building wrapped around a one-story concrete parking garage and mezzanine at level three. The 189 units range from studios to two-bedrooms with mezzanines. Residents will have access to 188 parking spots and 570 square feet of bike space, club space, an amenity deck, two courtyards, and a fitness/yoga center.

WHY RELEVANT?



- Outdoor Pool
- Complex Site Logistics & Phasing
- CM/GC

TEAM MEMBERS INVOLVED



Heather Gutierrez



Diego Rodriguez



David Hissem



Dave Gobbo



Bobby Childers

OWNER

Corum Real Estate
Phil Buckley
303.796.2000

ARCHITECT

Craine Architecture
Dan Craine
303.796.2000

CONTRACT AMOUNT

\$57M

SCHEDULE

August 2022 - January 2024
(Anticipated)



Exhibit C



PARKER INDEPENDENT LIVING

Parker, CO

This project was an expansion of the Parker Senior Campus. The new four-story, 138,000 square foot building features 103 luxury units, consisting of studio, one-bedroom, and two-bedroom units, a greatroom, private and group dining areas, a full kitchen and bistro, physical therapy and fitness rooms, an indoor pool, a theater, and multiple activity rooms.

OWNER

Parker AL, LLC
Joel Faestel
303.841.7600

ARCHITECT

Lantz-Boggio Architects
Jeremy Keimig
303.773.0436

CONTRACT AMOUNT

\$22M

SCHEDULE

October 2014 - January 2016



WHY RELEVANT?

- Indoor Pool
- Locker Rooms
- Fitness Spaces
- CM/GC



TEAM MEMBERS INVOLVED



Mario
Cappella



Heather
Gutierrez



DENVER ACADEMY PERFORMING ARTS

Denver, CO

JHL has worked with Denver Academy for nearly two decades on their campus which was the former Bethesda Hospital Campus. Throughout the years, JHL has built the new high school, upgraded the campus infrastructure, built new parking, and renovated the administration building, specials building, elementary school building, middle school building, library, and gymnasium, and built the new 25,000 square foot athletics facility which features a high school competition-sized gymnasium that seats 500, locker rooms, a weight room, dance studio, staff areas, and a commons to accommodate large gatherings. JHL is currently completing the new Performing Arts Center.



WHY RELEVANT?

- Complex Phasing/Logistics
- Occupied Campus
- CM/GC



TEAM MEMBERS INVOLVED



Diego
Rodriguez



Mario
Cappella



Heather
Gutierrez



Bobby
Childers

OWNER

Denver Academy
Jim Levinson
303.777.5870

ARCHITECT

Clutch Studio Design
Matt Robertson
303.459.2799

CONTRACT AMOUNT

\$10.8M

SCHEDULE

June 2022 - September 2023



Exhibit C



MIDDLE PARK HIGH SCHOOL CTE CENTER

Granby, CO

The new CTE Center for Middle Park High School is an 11,000 SF freestanding building housing several new or expanded career training programs including health care, business technology, and catering / culinary. The new building is separate from the high school but located in a way that defines a secure, central project and delivery yard between buildings.



WHY RELEVANT?

- Dynamic Project Management
- Team Member Involvement
- Mountain Construction
- Occupied Campus
- CM/GC



TEAM MEMBERS INVOLVED



Mario
Cappella



Dave
Gobbo



Adam
Fernan



Bobby
Childers



Heather
Gutierrez

OWNER

East Grand School District
Brad Ray
970.379.3344

ARCHITECT

HCM
Adele Willson
303.378.9663

CONTRACT AMOUNT

\$8.6M

SCHEDULE

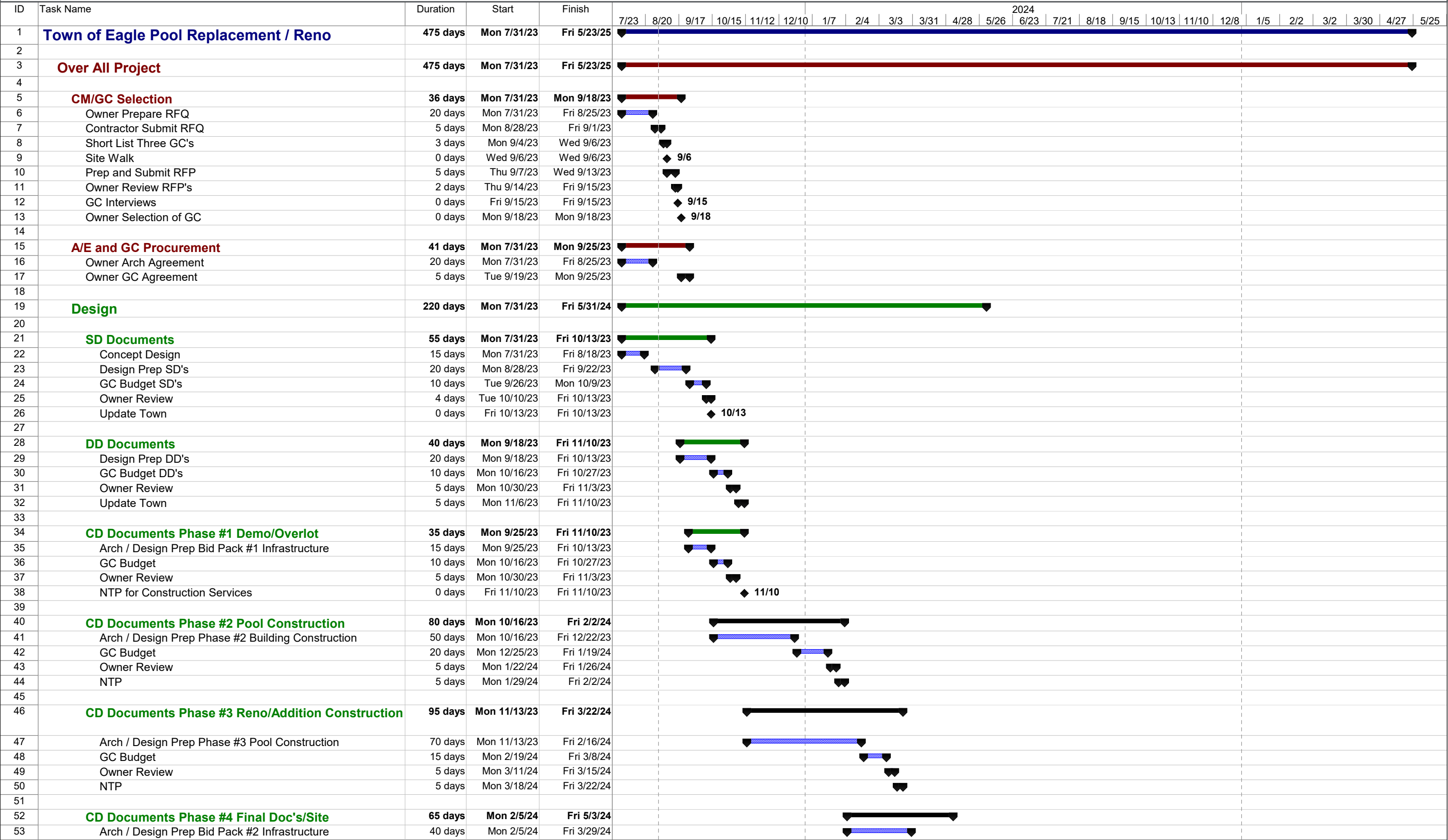
October 2022 - August 2023

04. Schedule

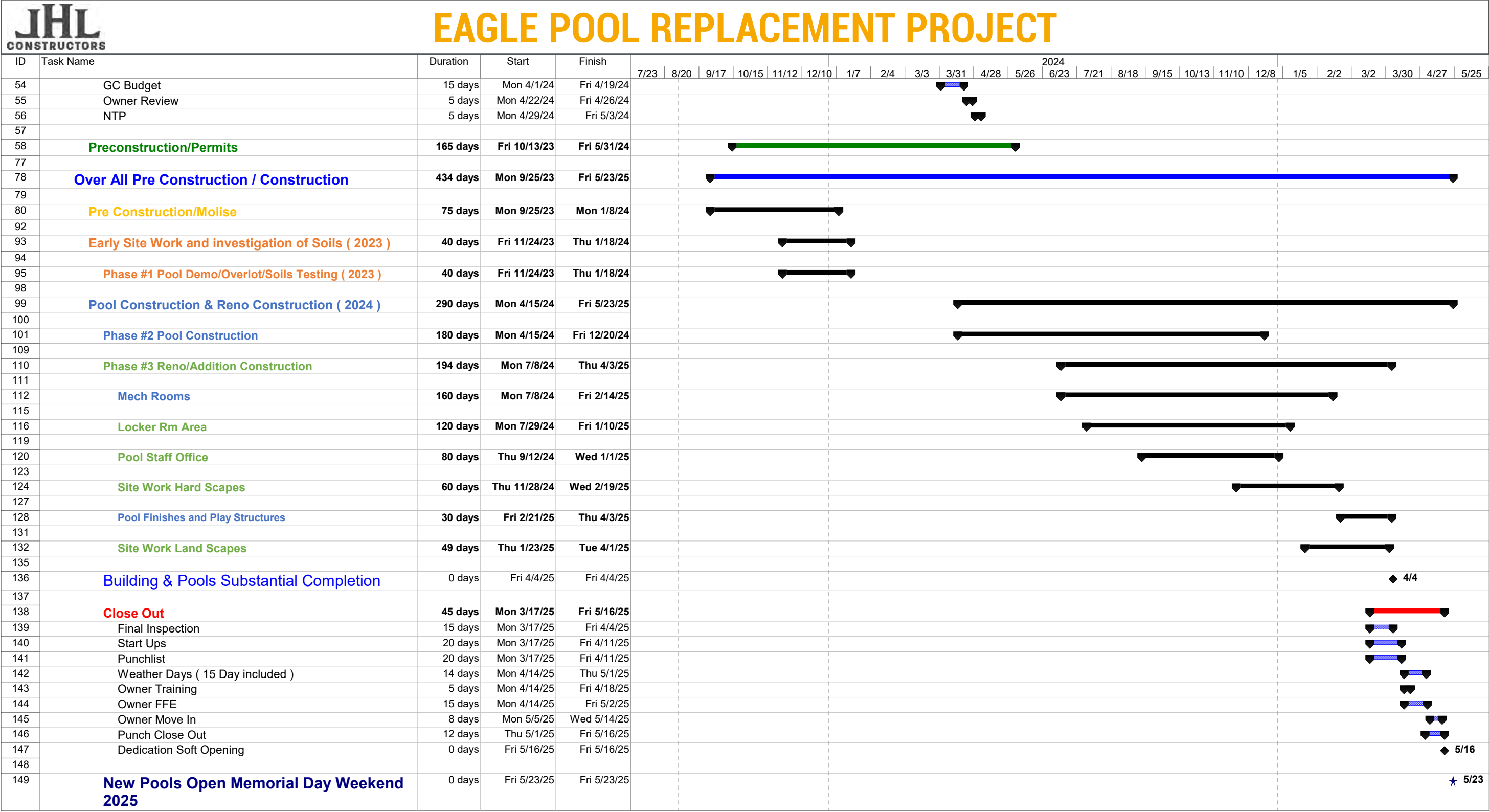
04. SCHEDULE



EAGLE POOL REPLACEMENT PROJECT



04. SCHEDULE



JHL Constructors

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Town of Eagle | Eagle Pool Replacement

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Describe how your team will ensure the project schedule will be met.

As 36+ year builder, JHL understands the schedule constraints of any construction project. Finish dates must be delivered with absolute reliability and cannot be compromised – no matter the changes in conditions, the economy, or other factors that traditionally delay construction projects. Building in the Rocky Mountains through winter seasons is some of the most challenging work a contractor can undertake, especially considering the outdoor nature of this incredible new pool and aquatic facility. JHL brings a proven track record of success in mountain construction and are 100% committed to delivering on the Town of Eagle's schedule objectives.

We have gathered all available information on current market conditions in Eagle, Edwards and Gypsum, current procurement constraints, current subcontractor capacities and interest levels, and other factors we know will ultimately influence our ability to deliver in accordance with the project schedule. However, a high-quality schedule starts during the preconstruction process. The project is built conceptually prior to ever having put a shovel in the ground. Additionally, thorough constructability analysis happens at each drawing and estimating interval. By thoroughly reviewing and performing a detailed analysis with the entire team including trade partners, precious time spent associated with design and construction changes are avoided during construction.

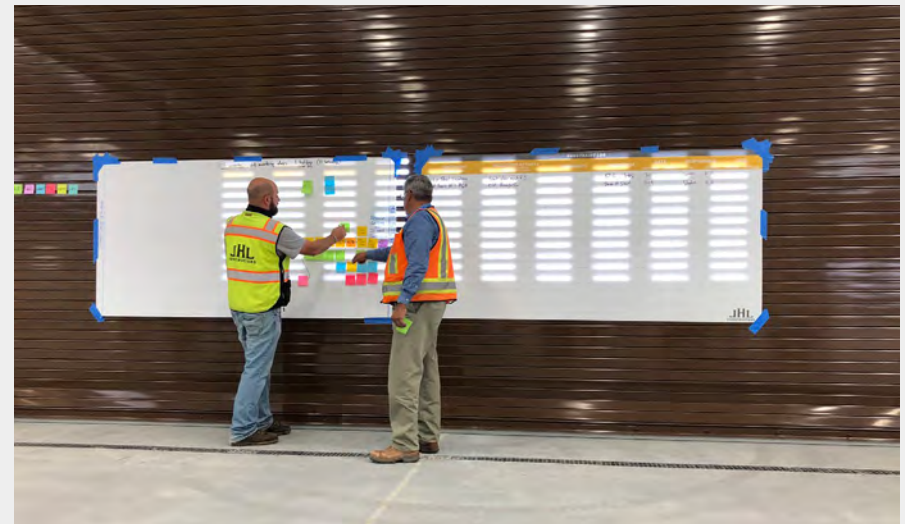
Ultimately, the project schedule will be developed and maintained in real time throughout the project with participation from all critical trade partners and stakeholders. The key to success on your project starts with pre-planning all aspects of the project and anticipating and removing any obstacles that may arise prior to construction. Developing a strong pool sequence and procurement plan from design through commissioning is paramount in this scheduling process on this project. During construction, all procurement, construction progress, and any adjustments made proactively in order to ensure our schedule construction completion.

In the pages that follow, we will present our approach and critical success factors to deliver in accordance with the RFP schedule.

SCHEDULE MANAGEMENT

We utilize pull-planning to develop our detailed construction schedule. Pull-planning allows us to balance our experience with subcontractor input while fostering a team approach and creating accountability and buy-in for all trade partners. In many cases, the Design Team and Owner may participate in these pull planning exercises.

As construction progresses, the overall project schedule will be updated bi-weekly. Updating the schedule bi-weekly ensures the project stays on schedule and quickly identifies potential risks so we can swiftly resolve them. The project team creates weekly work plans, and all foremen participate in the daily morning meeting to review the day's plan. Planning and managing the schedule with this level of detail ensures all trade partners are on track and working in the same direction. Ultimately, resulting in flawless execution and on-time completion.



Discuss any areas in which there could be opportunities to expedite the work.

EARLY BID PACKAGES	TRUE SELF-PERFORM CIVIL & STRUCTURE
In order to effectively determine the best pool design and path forward for the new Town of Eagle Pool and Aquatics Program, an early procurement package for site demolition and earthwork may be beneficial. We will be in a position to demolish the existing pool structure, perform site exploration along with a geotechnical engineer and determine the current cause of existing pool failures and to assist with the design of the new pool system and site development to start early in the Spring of 2024. Additionally, with the nature of this project focused on a new pool and aquatics center, the bulk of the design development and planning of this project relates to these new attractions along with the mechanical, plumbing and electrical systems serving these aquatic facilities. With this in mind, early engagement with the qualified successful pool builder may be paramount in building this facility for the future of the community. By having them procured early in the preconstruction and design process, they would be in a design assist role which would improve material and equipment selections, product selection efficiencies, and cost effectiveness of the design. The benefits to the Town of Eagle would be in design efficiency (bringing Pool Builder, General Contractor, Designer/Architect, and Owner together early in the process) therefore reducing potential for redesign), determining which sustainability and energy efficiency methods best suit these pool and project types, scheduling and cost benefit analysis of pool system types, and overall cost savings during construction as the design is fully vetted prior to pool subcontractor final pricing and procurement.	We believe JHL is the only CM/GC partner submitting on this project that is able to provide TRUE self-perform civil and structural capabilities. Our in house team of nearly 140 tradesman, craft, and operators performs turn-key (not broken down and sold off packages) for site utilities, excavation and grading, site demolition, and structural concrete with our own equipment and resources. We bid transparently to clearly demonstrate that the Owner is receiving best value and most competitive pricing. We are also able to perform flatwork through partnerships and select structural elements such as, framing and steel erection. What this really boils down to is that we have 100% control of our own destiny and can ensure The Town of Eagle and Mountain Recreation’s schedule objectives are met for this critical early work. Even if some of these scopes are determined to be subcontracted, our ability to immediately supplement in the event of subcontractor failure, with our own resources, allows us to deliver faster than any other non-self performing contractor can.  140+ TRADESMAN CRAFTSMEN OPERATORS

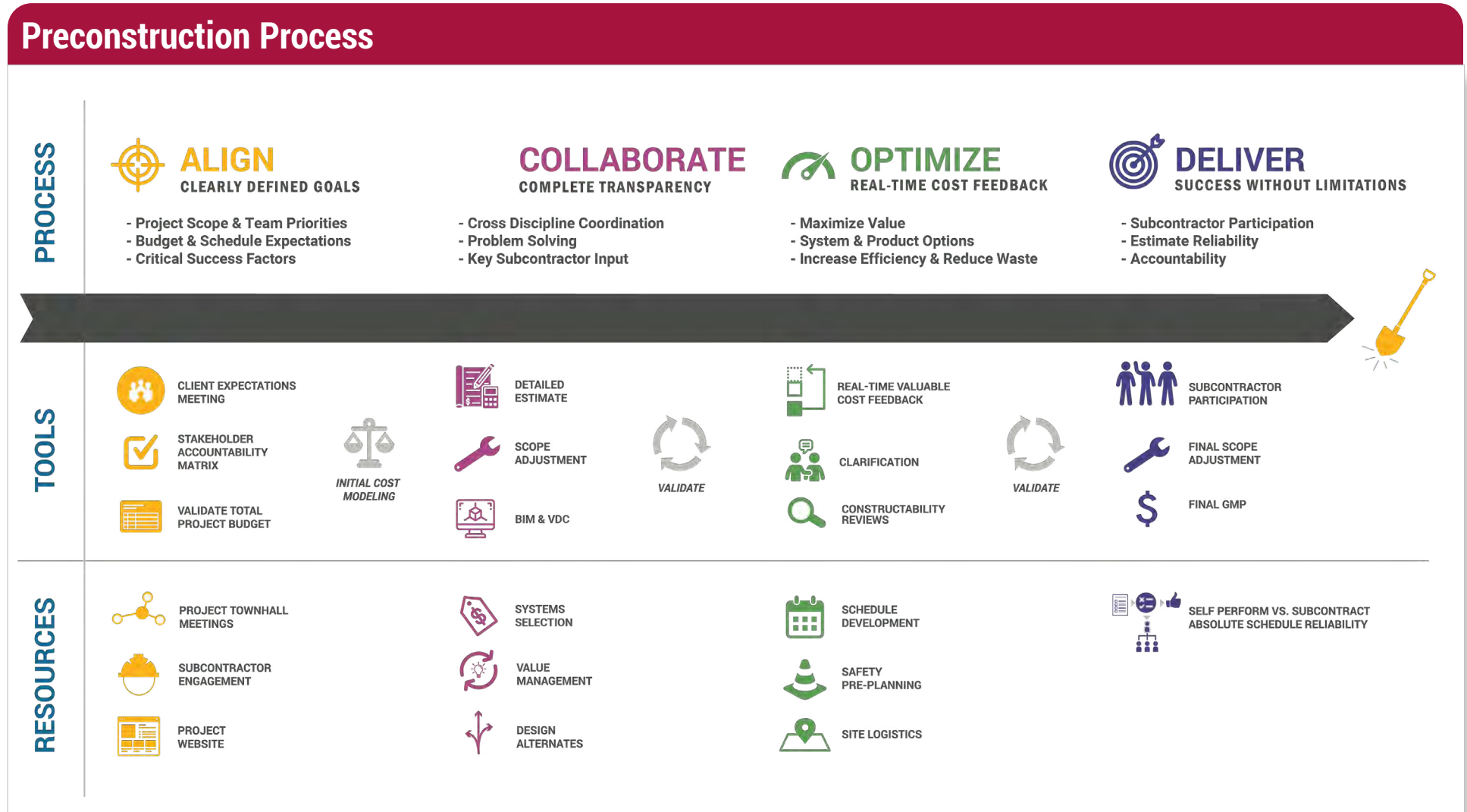


05. Project Approach

05. PROJECT APPROACH

Provide your team's philosophy in approaching projects within the CM/GC delivery system.

Our philosophy as it relates to any project we undertake, including those that utilize CM/GC delivery system is simple and straightforward. We exist to be true partners to our clients, to act as the best possible stewards of their interests and funds, and will work tirelessly to deliver the project vision and maximize value far beyond any other builder. We approach these projects with a genuine desire to learn and understand what total success looks like and adapt our execution to deliver that picture. To provide a better understanding of how we deliver on this philosophy, we've included some additional detail on how we will approach the preconstruction and construction stages of the Town of Eagle's Pool Replacement. The following summarizes our CM/GC preconstruction approach.



PRECONSTRUCTION PROCESS

JHL'S preconstruction process is a developed and proven system for maximizing the value on a project. We have tailored our approach and process to the specific needs of Town of Eagle.

ALIGN CLEARLY DEFINED GOALS

We will fully engage with the Town of Eagle, Dynamic Program Management and the Architect to understand and validate every element of the program, your goals, the design direction, and the decision-making process in conjunction with the supporting information that has been utilized to date. We then quickly align our comprehensive master schedule, conceptual cost model estimate, and constructability review, and work to set the strongest possible foundation to deliver your project vision.

COLLABORATE COMPLETE TRANSPARENCY

From our aligned foundation of knowledge, we seek early and intensive engagement with the entire project team. Immediately, we will create a list of **What's Important Now (W.I.N. Tasks)** to help focus and guide the overall team.

We continually evaluate and update our **W.I.N. Tasks** and the master schedule. Prioritizing critical tasks during preconstruction has a direct result on the timeliness of critical decisions and design integrity. Ultimately, our goal is preserving and enhancing value at this crucial stage. While our W.I.N. checklist continually adjusts and focuses on the most important immediate items, it encompasses all disciplines and aspects of the project. We value input from all team members and subject matter experts to gain their input on constructability reviews, site logistics planning and coordination, and safety execution strategies.

W.I.N. TASKS (What's Important Now)

01	✓	Immediate Alignment with the Collective Team on Overall Schedule Expectations and Procurement Strategies For Long Lead Items and Optional Pool Designs
02	✓	Actively Participate in All Design Advisory Group (DAG) Meetings to Identify Critical Success Factors and Critical Decision Points.
03	✓	Validation of Budget with Desired Pool Options at a Conceptual Budget Level
04	✓	Engage with the Subcontractor Community, and Pool Builders to Assess their Capacity to Service the Project
05	✓	Identify Soil Type and Bearing Capacities Along with Pool Structural Requirements

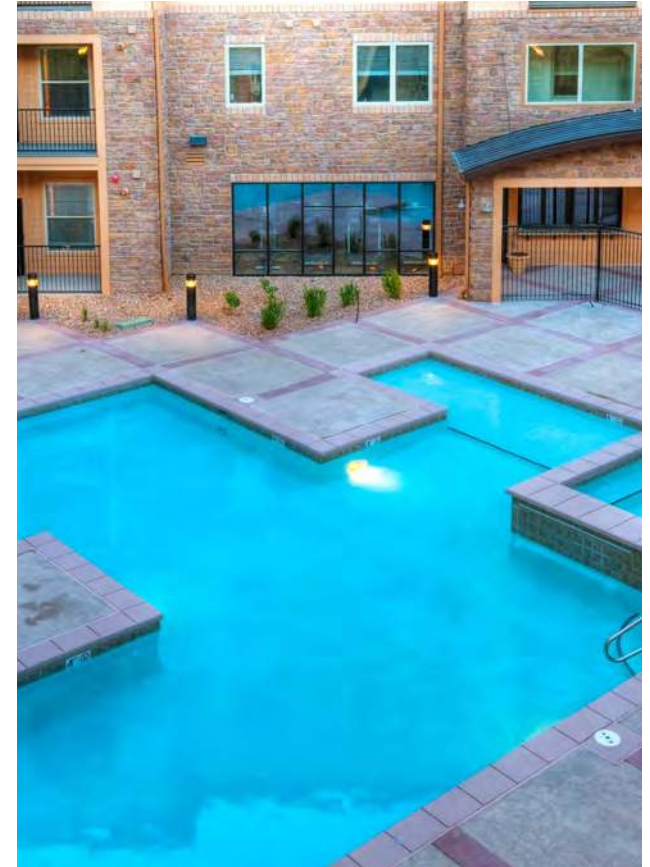


OPTIMIZE REAL-TIME COST FEEDBACK

As your construction partner, we achieve success when we deliver maximum value to your stakeholders. We know that value is defined differently on every project and we respect those priorities. In the end, only you can determine what value is for your project. JHL will provide you the highest level of service going beyond the traditional scope of CM/GC services to deliver a great value. This drives critical decision making for the project and allows us to invest significant time into selecting the systems and products that make this the best project for The Town of Eagle.

DELIVER SUCCESS WITHOUT LIMITATIONS

With JHL as your contractor, you can expect absolute reliability and accountability. Our preconstruction services have no limits. All of the work leading up to the GMP make the outcome more dependable. The final step is delivering subcontractor participation. Subcontractors make up more than 80% of project costs so delivering on subcontractor participation and competitive bidding helps ensure The Town of Eagle receives the best value. With the GMP, The Town of Eagle will receive a comprehensive package designed to clarify scope, cost, and options for cost savings or upgrades.

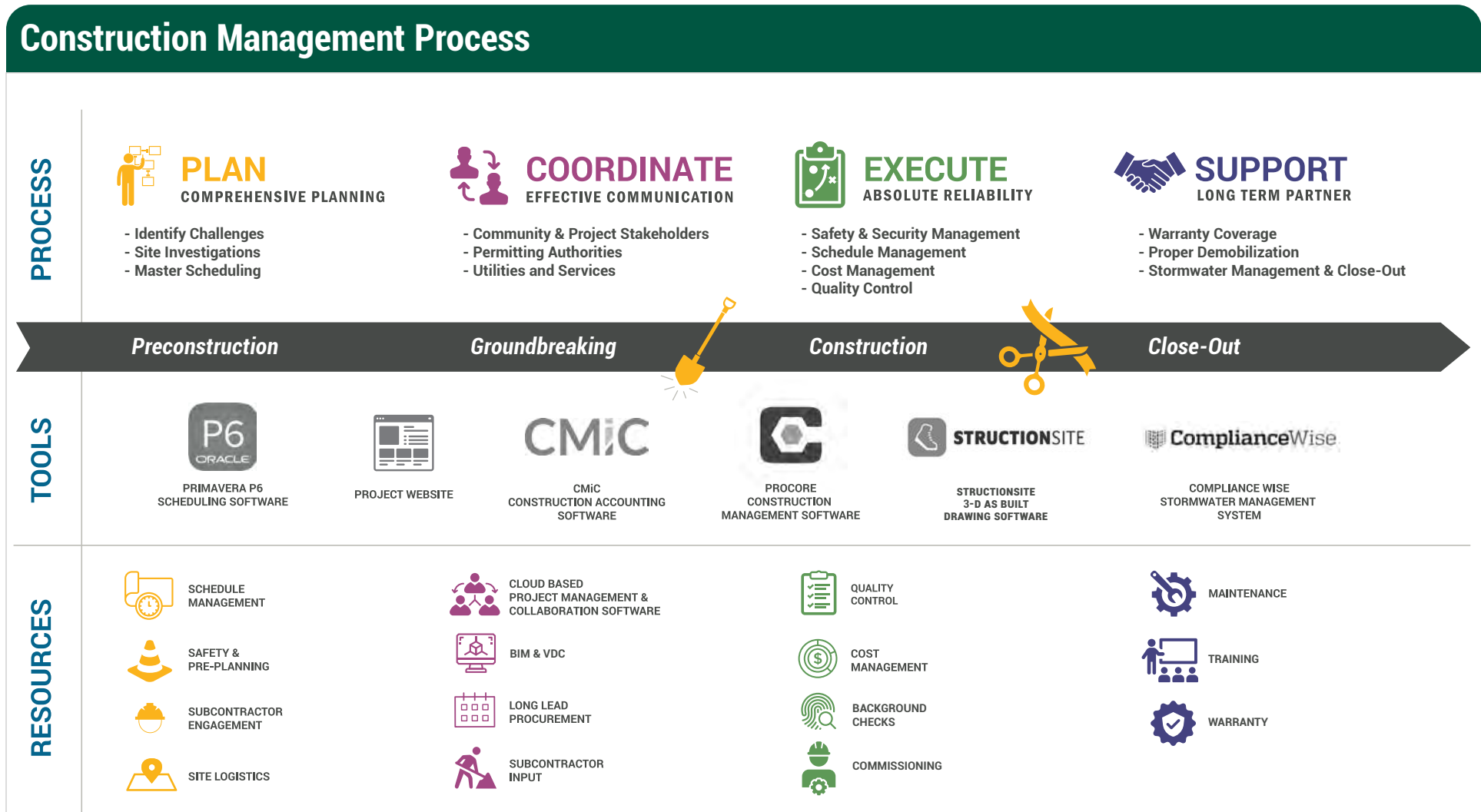


“ This project presented every conceivable challenge, including a late start, a tight budget, and an unexpected mid-project challenge created by a design error. You and **YOUR STAFF ROSE TO THE OCCASION** by accelerating the work and absorbing the design issue, finishing some two weeks ahead of schedule, and well within our budget goals. It is with great pleasure that I send this recommendation letter. Thank you for your **OUTSTANDING PERFORMANCE.**”

- Leonard Arnold
Elk Ridge Builders

CONSTRUCTION MANAGEMENT PROCESS

At JHL, we understand every project is unique and requires a custom approach to ensure a successful outcome. There is no one size fits all solution. We are committed to providing The Town of Eagle and your stakeholders with an exceptional experience, delivering with absolute reliability, and building an enduring relationship that continues long after your projects are complete. As we collaborate with your team, our CM/GC philosophy provides the framework for our collective success. We are integrated partners, whose expertise drives excellence and accountability. Our core values of, **Integrity, Passion, Commitment, and Performance** are evident every step of the way.





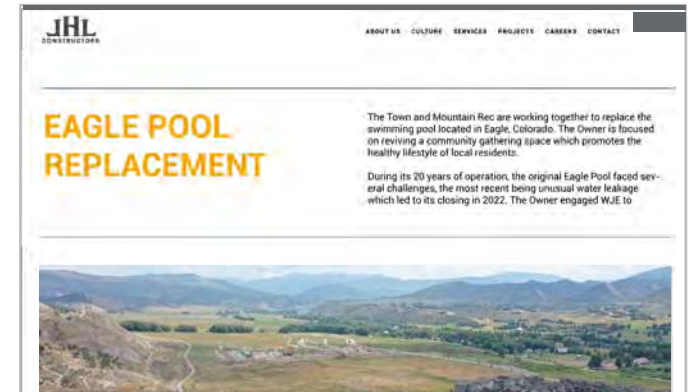
PLAN COMPREHENSIVE PLANNING

Engaging our entire team during the preconstruction process allows us to develop a comprehensive plan to successfully deliver your project. We work together to identify challenges specific to your project and provide pragmatic solutions. Site investigations and pre-planning are critical to success when working within an active recreational facility and in close proximity to homes in an adjacent neighborhood. By understanding the specific constraints of the site and how you utilize the space effectively, we can eliminate surprises, which can be a detriment to your regular operations or the project schedule. Early in the process we build a master schedule, providing a clear roadmap for the entire team. An integral piece of that master schedule is our project phasing and logistics plans. These plans support our site-specific safety plan and coordinate with Town of Eagle's priorities and campus operations. We understand that we are guests in the neighborhood and will minimize disruptions to daily habits with clear and frequent communication.



COORDINATE EFFECTIVE COMMUNICATION

Building off our well-thought-out plan and to ensure the best possible outcome for everyone, we over communicate to all stakeholders and trade partners. Most perceived issues are rooted in a communication breakdown. Effective communication with key partners, such as permitting authorities and utility providers is extremely important. Coordinating with the Town of Eagle, Eagle Fire, and Eagle Utilities is essential to the successful completion of this project. We will attend all the preliminary meetings with the project team. Black Hills & Holy Cross Energy and the internet and phone service providers are critical partners. We are diligent about reviewing new service requirements with them. Although their process is straight forward, it tends to be very drawn out and if not managed correctly, can derail an otherwise successful project. Outward communication with your stakeholders is equally important. By creating a private project website, we can efficiently share project progress, upcoming milestones, and changes in site access or construction areas with your community. We provide the platform, however you, as the client, always remain 100% in control of the content and messaging.



Sample project website.

“ Without hesitation, I can highly recommend JHL Constructors as **A HIGHLY PERFORMING CONTRACTOR**. But more than just a contractor that we hire, we consider JHL a **VALUABLE PARTNER** that simply goes about their business in the right manner. We trust them in the preconstruction services they provide, the reliability of their field operations, the quality product, and experience they produce. They do what they say they're going to do, they tackle challenges head on and always remain **SOLUTIONS ORIENTED**. From company leadership down to the teams on our jobsites, we've enjoyed working with JHL and look forward to a long-term partnership with them.”

- Rob Price
Boulder Valley School District



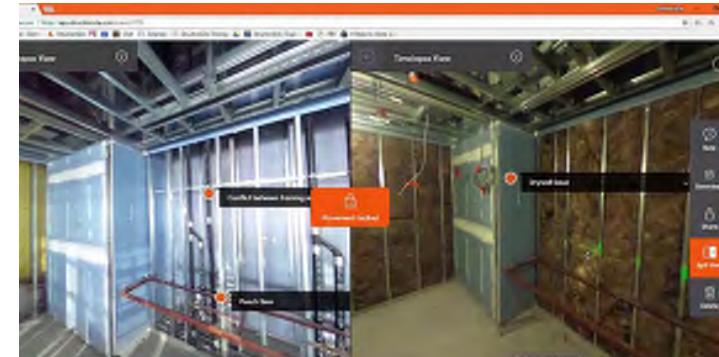
All the planning and coordination in the world doesn't yield results without execution. As we move into construction, we focus on four critical success factors: safety, cost management, schedule, and quality. It's clear that you also value these as you have asked us to specifically address these in our response. Our detailed hyperlinked responses below outline how we will execute and ensure the Eagle Pool Replacement is a complete success.

- [Preliminary Construction Schedule \(page 25 - click here\)](#)
- [Detailed Site Utilization Plans \(page 36 - click here\)](#)
- [JHL Quality Management Process \(page 39 - click here\)](#)

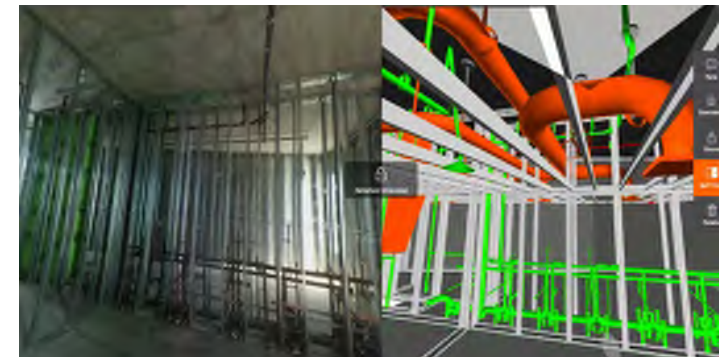


Turnover and closeout is paramount, it dictates how the project will be remembered by your stakeholders. It doesn't matter how well a team performs during preconstruction and construction if closeout and ongoing operations support is not managed well. Our processes ensure a strong finish and seamless turnover as you occupy the new Eagle Pool. As-built drawings are continuously updated in our cloud-based document management platform, Procore. As part of your closeout package, you will receive 3D as-built drawings from our StructionSite system. This application stitches the 360-degree photos taken throughout construction together, giving you 'x-ray' vision through your walls for future maintenance or modifications.

To expedite closeout, we require subcontractors provide closeout documents when they are 70 percent complete with their scope. This requirement ensures documents are ready prior to turnover and reviewed during the owner training process. As completion approaches, JHL provides a comprehensive training plan and schedule for the various building systems and specialty equipment. Training sessions are recorded, and we include the videos with the closeout documents. JHL does not have a warranty management division. Diego Rodriguez (PM) and Greg Lehew (Superintendent) will manage the warranty process. You benefit from this because they know the project better than anyone and will work to resolve any issues faster than anyone else. Since they don't hand-off warranty obligations to another department, they are driven to ensure the best quality during construction. Ultimately, you receive a building built to last for generations. Our support continues beyond the closeout and warranty period. We are here for an enduring relationship, not just this project.

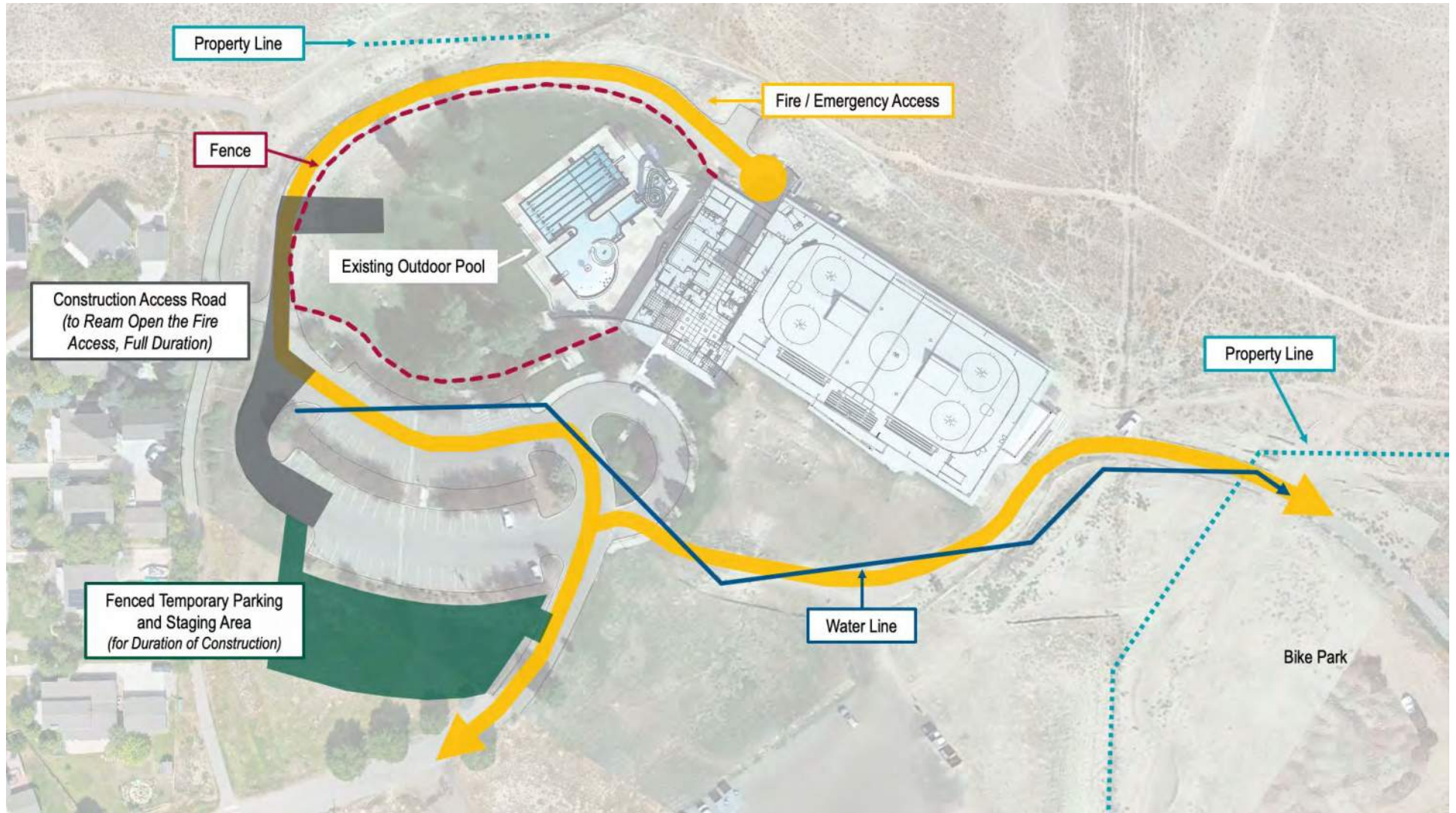


StructionSite Platform. JHL uses the StructionSite Platform to provide you with 3D as-builts at project completion.



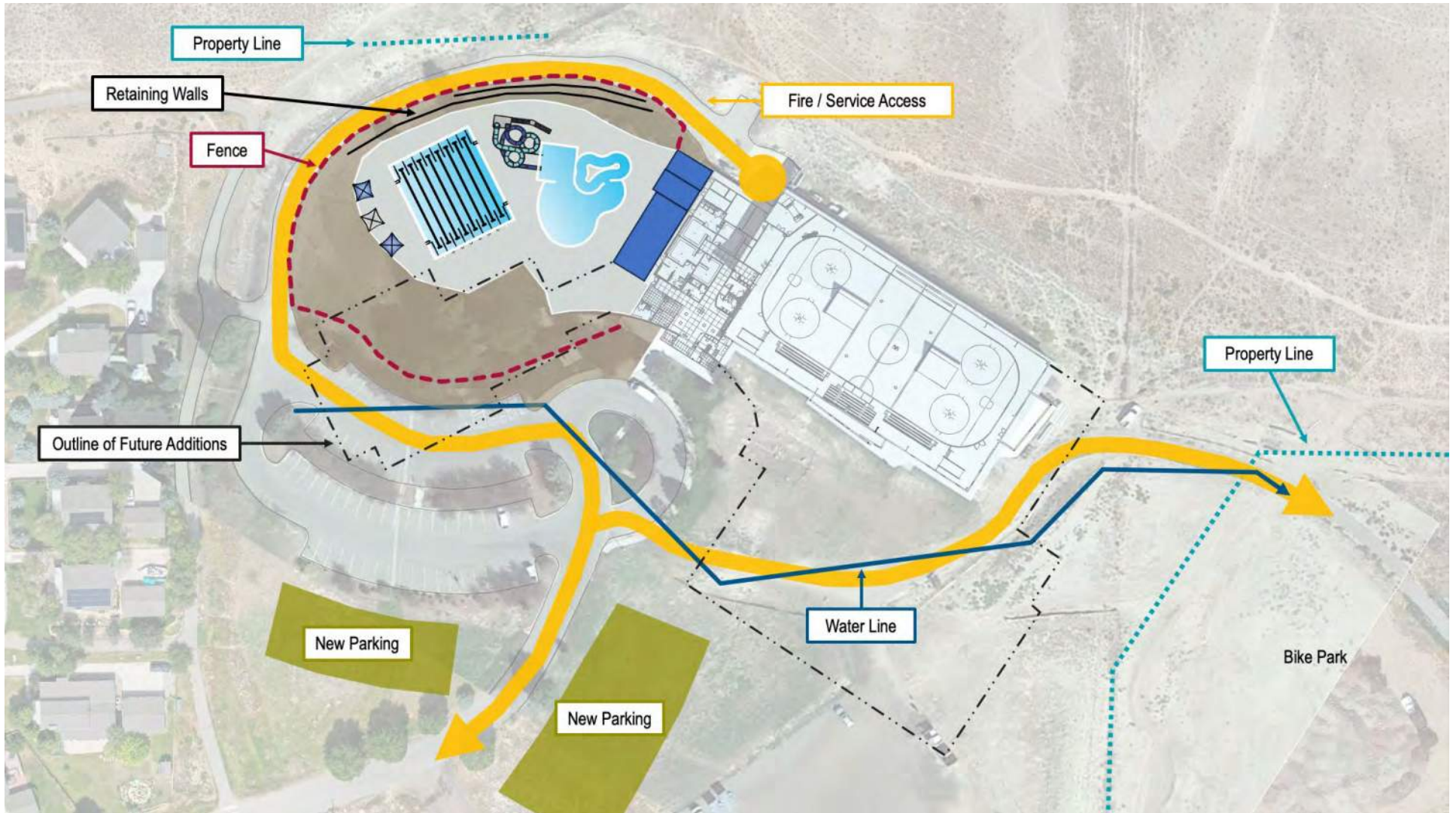
DETAILED SITE UTILIZATION PLANS

Existing Facility



DETAILED SITE UTILIZATION PLANS

Future Phase I Construction Completion



How do you manage challenges with respect to budget, schedule, and ensuring quality of the finished project?

COST MANAGEMENT AND CHANGE ORDER PHILOSOPHY

As your CM/GC Partner, we embrace our responsibility to be the best stewards of the Town and Mountain Rec's funds throughout the project life cycle. At all times, you will have a clear understanding of where every dollar is being spent and your budget's status. As a team, we review and approve any expenditures related to project contingency. Our goal is to protect the contingency funds throughout the process and work with you to maximize your budget. Our billing and cost support process is transparent and easy-to-follow. We are flexible and will conform to your needs and integrate with your systems and processes.

Effectively managing change is critical as scope changes can impact schedule, cost, and quality. By implementing our preconstruction strategy of identifying desired alternates and coordinating required decision dates on those changes, we seamlessly integrate those changes into the scope at a cost identified with the GMP establishment. Being well-coordinated and aligned in preconstruction reduces the potential for change in the construction process. Change in a construction project is certain. However when changes arise, we move swiftly to identify the change, inform the team of the potential cost and schedule implications, and alternate options. By informing you early, we allow you to make a timely decision regarding the implementation of the change to keep the project on track.

SCHEDULE MANAGEMENT

We utilize pull-planning to develop our detailed construction schedule. Pull-planning allows us to balance our experience with subcontractor input while fostering a team approach and creating accountability and buy-in for all trade partners. As construction progresses, the overall project schedule will be updated weekly. Updating the schedule weekly ensures the project stays on schedule and quickly identifies potential risks so we can swiftly resolve them. The project team creates weekly work plans, and all foremen participate in the daily morning meeting to review the day's plan. Planning and managing the schedule with this level of detail ensures all trade partners are on track and working in the same direction. Ultimately, resulting in flawless execution and on-time completion.

OVERCOMING SCHEDULE OBSTACLES AT CCIC

On the CCID project, JHL's Superintendent dealt with several unexpected issues that threatened the project schedule. To meet the original completion date, we worked with our trade partners to develop a recovery plan. With that, schedule constraints were overcome, and trades overlapped accelerating the schedule in all scopes. Not only were our trades working together, JHL brought on additional manpower and worked longer hours to temporarily enclose the building exteriors, enabling us to start on the interior finish work. In addition, we rearranged scopes of work, like moving the concrete polishing (80% of the floor) to a night shift, allowing work on multiple scopes in the same area. We pulled together with our subcontractors and completed two days of work within a 24-hour period and delivered the project on-time and with an exceptional level of quality.



QUALITY MANAGEMENT PROCESS

The process starts with preconstruction meetings for all trade partners, where we review project submittals, specifications, construction details, and testing requirements in detail. The meetings are open to the Town of Eagle and Dynamic Program Management (including sub-consultants), and all team members are encouraged to participate. As work progresses, we review the first work-in-place, at approximately 10% complete, to verify trades are meeting expectations. We continue periodic inspections of the work through completion using project and trade-specific quality control checklists. Procore manages this information and is accessible by JHL and all project team members. This accessibility drives accountability to the trade partners as the information is pushed out to their management teams in addition to the on-site personnel. Final quality validation comes just before the punch list generation. JHL conducts our pre-punch inspections, holding ourselves and trade partners accountable for delivering quality rather than using Town of Eagle and Dynamic Program Management as a quality inspection service. The result is a project Town of Eagle can be proud of and will stand the test of time.

With the pool and aquatic program, there are additional QA/QC steps that must be taken into account during construction. We must take extra precautions to ensure that pool finishes and details are applied/constructed correctly with longevity and sustainability in mind. The ability of maintenance personnel to maintain and service systems & equipment throughout the life of the facility are constant considerations during construction. These considerations along with all of the additional safety aspects and quality checks of installing a children's aquatic play structure and slides so that all of the children are able to enjoy this equipment safely for years to come are of utmost importance to our teams.



A JHL superintendent uses Procore to inspect work and confirm it meets expectations.

JHL CONSTRUCTORS

JHL Constructors Inc.
3100 E. Panorama Drive, Suite 300
Englewood, Colorado 80112
P: (303) 741-6116

Project: QA/QC 12345 QA/QC Test Project
3100 E. Panorama Drive Site 300
Englewood, Colorado 80112
P: 726-471-1580

Inspection: 31 Over Excavation #1

Q/T	0	0	0	0
Items Inspected	Conforming	Deficient	N/A	Neutral

Type: Quality Status: Open
Trade: Earthwork Location:
Spec Section: Linked Drawings:
Description: This inspection is to verify over lotX operations
Attachments:

Inspection Details

Inspection Date: Due Date:
Point of Contact: Responsible Contractor:
Assign(s):

Safety

1.1 Is area safe to enter?
Details: Eye contact with all equipment operators required.
Activity: 0 Response Changes, 0 Attachments, 0 Photos, 0 Comments, 0 Observations No Response

1.2 All equipment inspections complete?
Details: Workers clearbacked items.
Activity: 0 Response Changes, 0 Attachments, 0 Photos, 0 Comments, 0 Observations No Response

1.3 All excavations correctly aligned?
Activity: 0 Response Changes, 0 Attachments, 0 Photos, 0 Comments, 0 Observations No Response

Over lotX verification

2.1 Site staking by licensed surveyor?
Activity: 0 Response Changes, 0 Attachments, 0 Photos, 0 Comments, 0 Observations No Response

2.2 Building corners been staked with off sets?
Activity: 0 Response Changes, 0 Attachments, 0 Photos, 0 Comments, 0 Observations No Response

2.3 Has bottom of hole elevation been certified by 3rd party?
Activity: 0 Response Changes, 0 Attachments, 0 Photos, 0 Comments, 0 Observations No Response

JHL Constructors Inc. Page 1 of 2 Printed On: Apr 7, 2023 07:29 AM MST

QUALITY MANAGEMENT PLAN



- 1 PREPARATORY**
Preconstruction
 - Review Project Submittals, Specifications, Construction Details, and Testing Requirements
- 2 INITIAL**
During Construction
 - Review First Work-in-Place at 10% Complete
 - Continue Periodic Inspections Using Project Specs & Trade Project Controls Checklists
- 3 FOLLOW-UP**
Construction Completion
 - Monitor Work Daily
 - Pre-Punch Inspections For Accountability

Discuss how your firm will include local suppliers and subcontractors in the bidding process.

Subcontractor solicitation and procurement starts with leveraging existing relationships with local subcontractors, including relationships with community members, the DAG, community member and board members, the Town of Eagle staff, DPM, and JHL's established relationships within the county. Through our experience building throughout Colorado (in both mountain and rural environments), we understand that sometimes the strongest relationships we have are the local contractors and community members' networks; and we prefer to hire as many local subcontractors as possible. Solicitation of subcontractors from the Eagle County market and maximizing local economic benefit to the residents of Eagle County will be a top priority. We also understand that the subcontractor market is already struggling with capacity due to the amount of current work in the county and regional work by the specialty pool contractors. To ensure we bring you the best value and balance the risk of capacity issues with the local subcontractor market, our solicitation strategy includes expanding our subcontractor outreach to include subcontractors from the Front Range and Western Slope as well; not to mention, regionally, when it comes to high quality, qualified pool builders.

From our extensive experience across Colorado, we also understand that just sending bid invites or emails out to subcontractors won't work on this project. It takes far more effort and a deeper level of engagement to succeed. This is where JHL differs from the competition. We start to market your project to subcontractors long before there's a set of documents to bid. Rather than cold emailing subcontractors, we will invite them to an in-person meeting with our entire team. During this meeting, we will discuss the size, scope, sequence and timing of the job. We will also discuss how we treat subcontractors as partners and don't just use them to get the job done. We believe a subcontractor's success is our success, and is crucial to a positive outcome. This is especially true when it comes to subcontractors local to Eagle County, we intend to leave your community relations in the same state of harmony we found it, and will treat our partners accordingly.

JHL's reputation as the American Subcontractors Association of Colorado's 'General Contractor of the Year over \$100M' four out of the past five years brings real value to your projects. Subcontractors want to work for JHL. They seek out the projects we are on and they trust the job will be run well, so they can be efficient and effective. This equates to excellent bid coverage and the most competitive numbers in the market. This maximizes your construction budget. At the end of the day, with JHL's subcontractor and supplier relationships leveraged for the benefit of the Eagle Pool Replacement project, we will have delivered far more scope and value for your fixed dollar than any of our competition can!



List of local subcontractors and regional pool builders that JHL Constructors and our team members have performed quality remote and mountain projects with:

- A 4 S Construction
- All In Excavating Inc
- All Phase Electric
- **Associated Pool Builders**
- B&B Excavating
- Berich Masonry, Inc.
- C & C Plumbing & Mechanical, Inc.
- Castleton Masonry, Inc.
- Central Electric
- Central Mechanical
- Cookey's Mechanical
- Design Mechanical/Comfort Systems
- Encore Electric, Inc.
- Ewing Trucking and Excavating
- **Front Range Aquatech**
- Heyl Contruction
- High Country Builders
- **High Country Pools**
- Hobbs Excavating And Trucking LLC
- **Infinity Pools**
- Kuck Mechanical
- Mountain Man Masonry, LLC
- MTech Mechanical
- New Electric
- Nottingham Excavating & Trucking Inc.
- Rmcl Excavating
- S2M Construction
- Superior Drywall Inc.
- The Gallegos Corporation
- Total Concrete Services
- Vasquez Concrete Inc



06.

References

06. REFERENCES

Provide a list of recent, relevant publicly funded projects completed or begun within the past 5 years by your firm with contact information, along with a project description. Identify in the reference list which projects this CM/GC team has performed collectively. The Owner reserves the right to check additional references beyond those provided in the submittal.

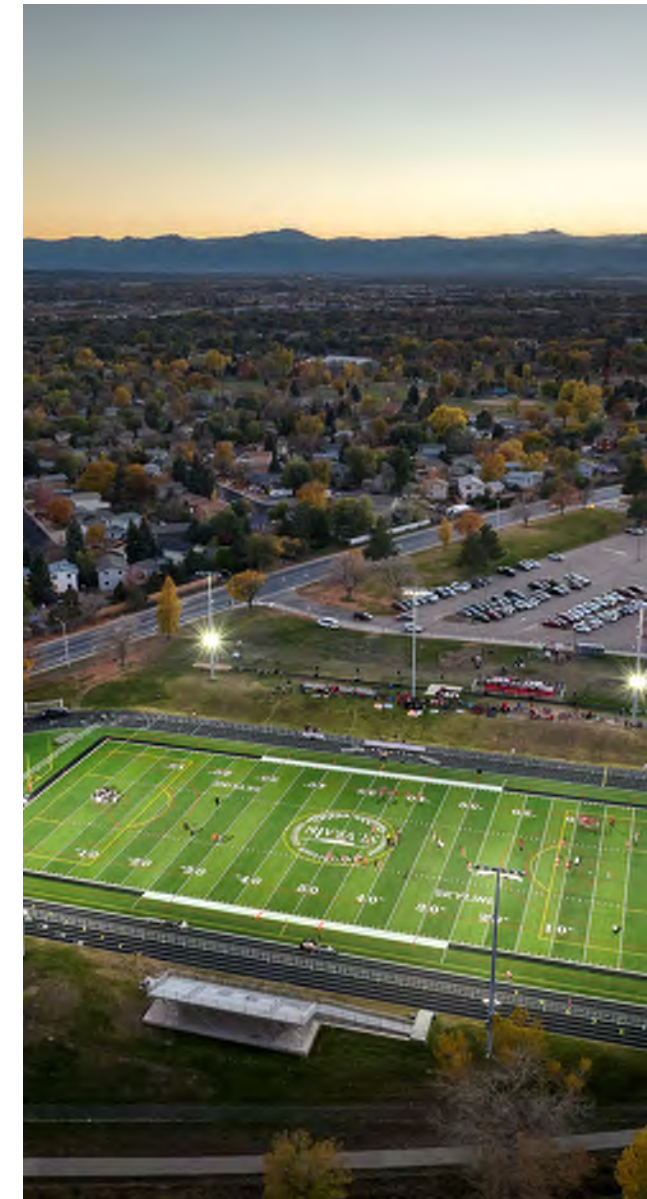
CURRENT PROJECTS

Project	Owner / Owner's Rep.	Architect / Engineer	Completion
Aurora Highlands P-8 School Aurora, Colorado \$43.4M	Aurora Public Schools Christina Camp 303.819.6727	Hord Coplan Macht Ragan Ferrara 303.222.2173	September 2023 95%
Erie High School Field House Erie, Colorado \$2.5M	St. Vrain Valley School District Bryan Zwisler 303.870.2560	DLR Group Greg Cromer 303.916.8522	September 2023 90%
Silver Creek High School Track Longmont, Colorado \$2.3M	St. Vrain Valley School District Bryan Zwisler 303.870.2560	RB+B Architects David Kress 970.488.3865	September 2023 90%
Rocky Mountain Classical Academy (RMCA) Phase 3 Colorado Springs, Colorado \$6.2M	RMCA Cullen McDowell 719.550.5331	CRP Architects Brian Risley 719.651.2082	October 2023 65%
Parker Water Sanitation District New HQ Parker, Colorado \$53.2M	Parker Water & Sanitation District Rebecca Tejada 720.842.4261	Perkins + Will Ernest Joyner 720.323.2406	October 2023 75%
E-470 Central Maintenance Facility Aurora, Colorado \$37.7M	E-470 Public Highway Authority Chuck Weiss 303.537.3420	D2C Architects Eric Combs 303.952.4802	June 2024 20%
Granby Elementary School Granby, Colorado \$41.8M	East Grand School District Brad Ray 970.740.8367	Hord Coplan Macht Matt Porta 303.808.9835	November 2024 10%
The Aurora Highlands CMaR Aurora, Colorado \$500M	AACMD Matt Hopper 303.339.0042	AECOM Anthony Devito 303.349.0180	December 2026 60%



PROJECTS COMPLETED WITHIN THE LAST FIVE YEARS

Project	Owner / Owner's Rep.	Architect / Engineer	Completion
Section 30 Mass Grading Aurora, Colorado \$30M	AACMD Matt Hopper 303.339.0042	AECOM Dave Center 303.649.2770	June 2023
Tributary W Drainage Aurora, Colorado \$6.5M	AACMD Matt Hopper 303.339.0042	Merrick Carson Besgrove 303.751.0741	June 2023
Filing 9 Utilities Aurora, Colorado \$10.5M	AACMD Denise Denslow 303.779.5710	Cage Civil Engineering Eric Pearson 720.206.6625	January 2023
Evergreen High School Renovation Evergreen, Colorado \$7.5M	JeffCo Public School Sam Miller 303.982.2549	DLR Group Mayraj Peer 303.990.4873	December 2022
Southbound Main Street Aurora, Colorado \$4.4M	AACMD Matt Hopper 303.339.0042	AECOM Anthony Devito 303.349.0180	December 2022
East Middle School Aurora, Colorado \$26M	Aurora Public Schools Susan Martini 720.584.8328	CRP Architects Brian Risely 719.651.2082	October 2022
Niwot High School Turf Field Niwot, Colorado \$1.6M	St. Vrain Valley Schools Gary Frantz 303.709.3865	RB+B Architects David Kress 970.420.3810	August 2022
Woodland Elementary School Aurora, Colorado \$29.7M	Cherry Creek School District David Henderson 720.470.8742	RTA Architects Doug Abernethy 719.229.4939	August 2022
Skyline High School Turf Field Longmont, Colorado \$1.5M	St. Vrain Valley Schools Gary Frantz 303.709.3865	RB+B Architects David Kress 970.420.3810	June 2023
Pinnacle Charter School Field House Federal Heights, Colorado \$8.6M	Pinnacle Charter School Kurt Connolly (Anser Advisory) 303.810.5054	Hord Coplan Macht Josh Francis 303.996.7015	June 2022
Bridgewater Filing 10 Aurora, Colorado \$4.7M	AACMD Matt Hopper 303.339.0042	AECOM Anthony Devito 303.349.0180	May 2022



PROJECTS COMPLETED WITHIN THE LAST FIVE YEARS

Project	Owner / Owner's Rep.	Architect / Engineer	Completion
Global Village Academy North Northglenn, Colorado \$18.2M	Global Village Academy North John Sattler (DCS) 303.818.7802	DLR Group Greg Cromer 303.916.8522	May 2022
Southlawn Elementary School Commerce City, Colorado \$22.6M	27J School District Michael Hall (Anser Advisory) 720.203.5181	Hord Coplan Macht Adele Willson 303.378.9663	May 2022
The Aurora Highlands Tributary Aurora, Colorado \$32M	AACMD Rodney Muller (Contour Services) 303.229.8066	Merrick Brian Chevalier 303.800.9048	January 2022
Security Upgrades at Ft. Morgan HS Ft. Morgan, Colorado \$4.7M	Morgan County School District RE-3 Michael Hall (Anser Advisory) 720.203.5181	Hord Coplan Macht Kara Aylesworth 720.252.2612	January 2022
Berthoud HS / Turner MS Renovation Berthoud, Colorado \$6M	Thompson School District Heidi Roge (formerly with) 970.518.6137	Cunningham Brian Rogers 720.651.2082	January 2022
38th Parkway Aurora, CO \$2.6M	AACMD Matt Hopper 303.339.0042	AECOM Anthony Devito 303.349.0180	January 2022
Weld 7 District Wide Upgrades Kersey, Colorado \$22.4M	Weld County School District RE-7 Jeremy Burmeister 970.593.8750	RB+B Architects Derek Young 970.484.1071	September 2021
RMSEL Expansion Denver, Colorado \$10.9M	Rocky Mtn. School of Exp. Learning Joe Lara (NV5) 720.470.9996	TreanorHL Patrick Johnson 303.204.3186	August 2021
Warren Tech South Littleton, Colorado \$9.1M	Jefferson County School District Sam Miller 720.384.8997	Hord Coplan Macht Christine Poppe 303.222.0226	August 2021
CTE Improvements Douglas County, Colorado \$9.3M	Douglas County School District Jessica Killian (NV5) (formerly with) 303.328.5904	DLR Group Greg Cromer 303.916.8522	August 2021
Highlands Elementary School Erie, Colorado \$25.5M	St. Vrain Valley School District Sam Freeman 303.591.2222	Hord Coplan Macht Adele Willson 303.378.9663	August 2021



PROJECTS COMPLETED WITHIN THE LAST FIVE YEARS

Project	Owner / Owner's Rep.	Architect / Engineer	Completion
Griswold WPF Improvements Aurora, Colorado \$11.5M	City of Aurora Clinton Weisz 720.859.4337	Carrollo Nathan Evenson 303.246.6868	June 2021
Frederick High School Longmont, Colorado \$6.8M	St. Vrain Valley School District Bryan Zwisler 303.870.2560	Cannon Design Anne Weber 303.916.1887	May 2021
TSD Security Upgrades Loveland, Colorado \$5.1M	Thompson School District Zach Chambers 970.567.5966	HSS Bryan Jones 720.641.2172	April 2021
Ft. Carson CTC Site Package Ft. Carson, Colorado \$1.6M	CO Dept. Military & Veterans Affairs Jesus Meza 720.250.1372	Farnsworth Group Todd Krell 970.443.3065	April 2021
Chief Creek #4 Dam Outlet Works Rehab. Wray, Colorado \$406K	Colorado Parks and Wildlife Joe Decrescentis 303.291.7392	Tetra Tech Cam Carpenter 303.825.5999	February 2021
Metro Wastewater Facility Upgrades Denver, Colorado \$42.3M	Metro Wastewater Reclamation Dist. Sherman Papke 303.286.3390	Stantec Katy Vandenberg 720.244.7182	February 2021
CU 19th Street Bridge Boulder, Colorado \$4.7M	University of Colorado Boulder Brian Moffitt 303.946.9122	Otak Dave Graff 303.444.2073	January 2021
BVSD Central Kitchen & Ed Center Boulder, Colorado \$35.2M	Boulder Valley School District Rob Price 970.214.0110	Stantec Katie Coyle 303.575.8555	November 2020
Goddard Middle School Littleton, Colorado \$4M	Littleton Public Schools Greg Martin (Jacobs) 720.660.3913	FBT Architects Jeremy Trumble 719.309.9440	October 2020
Kit Carson K-12 Campus Kit Carson, Colorado \$28M	Kit Carson School District Robert Framel 719.962.3219	CRP Architects Brian Risley 719.651.2082	October 2020
East Grand School District Imp. Grand County, Colorado \$6.5M	East Grand School District Frank Reeves 719.740.8367	Munn Architects Scott Munn 970.887.9366	September 2020



PROJECTS COMPLETED WITHIN THE LAST FIVE YEARS

Project	Owner / Owner's Rep.	Architect / Engineer	Completion
Colorado SKIES Academy Englewood, Colorado \$6.5M	Colorado SKIES Academy Paul Wember (Wember) 303.378.4130	Hollis+Miller Greg Porter 719.313.9729	September 2020
Thompson CTE & Ferguson HS Loveland, Colorado \$16.8M	Thompson School District Todd Piccone 303.210.6147	DLR Group Greg Cromer 303.916.8522	September 2020
Monument Academy Monument, Colorado \$17.2M	Monument Academy Christianna Herrera 719.432.6765	CRP Architects Chris Manino 303.633.5901	September 2020
Ivy Stockwell & Berthoud ES Berthoud, Colorado \$7.4M	Thompson School District Heidi Roge (formerly with) 970.518.6137	Cunningham Gardner Clute (formerly with) 720.609.7629	August 2020
Legacy Academy Elizabeth, Colorado \$5M	Legacy Academy Jen Zander 303.646.2636	Galloway Rick Sander 303.770.8884	August 2020
APS Harmony Ridge P-8 School Aurora, Colorado \$30.9M	Aurora Public Schools Susan Martini 720.584.8328	Hord Coplan Macht Ragan Ferrera 303.222.2173	July 2020
Explore PK-8 School Denver, Colorado \$21.1M	Mapleton Public Schools Mike Crawford 303.525.7153	Hord Coplan Macht Matt Porta 303.808.9835	July 2020
CCSD Elevation Centennial, Colorado \$5M	Cherry Creek School District Mike Lovick (formerly with) 720.762.6345	RTA Architects Doug Abernethy 719.229.4939	March 2020
Aurora Highlands Entry Aurora, Colorado \$2.2M	AACMD Rodney Muller (Contour Services) 303.229.8066	EV Studio Matt Soboda 303.670.7242 x 77	February 2020
Niwot High School Renovation Niwot, Colorado \$12.8M	St. Vrain Valley School District Bryan Zwisler 303.870.2560	Anderson Mason Dale Architects Cathy Bellem 303.294.9448	December 2019
Jefferson Academy Performing Arts Broomfield, Colorado \$14.6M	Jefferson Academy Building Corp Christine LaBerge 303.513.2366	Hord Coplan Macht Kara Aylesworth 720.252.2612	December 2019



PROJECTS COMPLETED WITHIN THE LAST FIVE YEARS

Project	Owner / Owner's Rep.	Architect / Engineer	Completion
Summit County Resource Allocation Park Dillon, Colorado \$4.8M	Summit County Aaron Byrne 970.418.0265	NA	November 2019
Grand Peak Academy Colorado Springs, CO \$16M	Grand Peak Academy Kurt Connolly (Anser Advisory) 303.810.5054	Cunningham Kari-elin Mock 720.360.4577	November 2019
Cherry Creek Innovation Campus Centennial, Colorado \$45M	Cherry Creek School District Sarah Grobbel 720.936.1945	DLR Group Greg Cromer 303.916.8522	September 2019
ACC Sturm Campus/Limelight Ave. Castle Rock, Colorado \$22M	Arapahoe Community College David Crawford (formerly with) 720.470.2578	DLR Group Bob Binder 719.649.1701	September 2019
Lotus School For Excellence Denver, Colorado \$5M	Lotus School For Excellence Kristine Willie-Matney (LaCouture) 720.771.1773	Adragna Architecture + Development Ryan Adragna 719.244.4023	April 2019
BVSD Transportation Terminal Boulder, Colorado \$15.5M	Boulder Valley School District Steve Schumacher 720.561.5954	RNL/Stantec Barry Newton 303.295.1717	December 2018
Engineering Admin Wing Renovation Boulder, Colorado \$2.5M	University of Colorado Boulder Keane Ray 303.819.3139	Anderson Mason Dale Architects Michael Stesney 303.294.9448	October 2018
Adventure Elementary School Denver, Colorado \$20M	Mapleton Public Schools Mike Crawford 303.525.7153	CRP Architects Brian Risley 719.651.2082	September 2018
Mrachek Middle School Aurora, Colorado \$28M	Aurora Public Schools Allison Pearlman 913.645.2294	Hord Coplan Macht / RB+B Matt Porta 303.808.9835	September 2018
Erie High School Erie, Colorado \$12.7M	St. Vrain Valley School District Bryan Zwisler 303.870.2560	DLR Group Greg Cromer 303.916.8522	September 2018
Mead High School Mead, Colorado \$13.8M	St. Vrain Valley School District Bryan Zwisler 303.870.2560	DLR Group Greg Cromer 303.916.8522	September 2018



PROJECTS COMPLETED WITHIN THE LAST FIVE YEARS

Project	Owner / Owner's Rep.	Architect / Engineer	Completion
Arapahoe Ridge/Cotton Creek ES Westminster, Colorado \$11M	Adams 12 Five Star Schools Tim Dolezal 720.972.4229	RB+B Architects Josh McGarvey 970.484.0117	September 2018
Stargate School Innovation Center Broomfield, Colorado \$5.2M	Stargate School Kurt Connolly (Anser Advisory) 303.810.5054	Hord Coplan Macht Adele Willson 303.378.9663	August 2018
RMCA B Wing Addition Colorado Springs, Colorado \$5.1M	Rocky Mountain Classical Academy Christianna Herrera (formerly with) 719.432.6765	CRP Architects Brian Risley 719.651.2082	August 2018
Cherry Creek Academy Englewood, Colorado \$5.2M	Cherry Creek Academy Kristin Nowak (formerly with) 310.503.3784	RTA Architects Doug Abernathy 719.229.4939	August 2018
Dillon Amphitheater Dillon, Colorado \$10M	Town of Dillon Dan Burroughs 970.262.3405	Perkins + Will Sheridan Staats 303.308.0200	July 2018
CDOT Washington Bridge Replacement Last Chance, Colorado \$4M	CDOT Craig Schumacher 970.520.4905	Amec Foster & Wheeler 303.784.4880	June 2018





JHL

CONSTRUCTORS

9100 E. Panorama Drive, Suite 300
Englewood, CO 80112
303.741.6116
jhlconstructors.com



To: Mayor and Town Council
From: Larry Pardee, Town Manager
Date: March 12, 2024
Re: Town Manager Report

Administration and organization update:

On February 29, Leap Day, Kira Koppel hosted the Lunch and Learn – NetZero Goals meeting. We had 40 team members join us in person in the Council Chambers and another four on TEAMS. Kira did an excellent job communicating and educating our organizational team members on achieving NetZero for the Town Government operations by 2028 and briefly discussed the Community by 2030. I attached a copy of the email I sent out to all of our Team members ([LINK](#)).

We are thrilled to share our newly crafted Culture Statement, a collaborative effort shaped by the valuable input of each member of our organization. We extend our heartfelt gratitude to everyone who contributed to refining this statement- your feedback has been instrumental.

After careful consideration and thoughtful discussions within the drafting group, we are excited to present our guiding principle:

Culture Statement: *"Fostering teamwork through inclusivity, empowerment, and understanding."*

This statement reflects our commitment to cultivating a work environment that thrives on collaboration, respect, and shared understanding. It emphasizes the importance of inclusivity, empowerment, and understanding as pillars supporting our collective success.

For a deeper dive into the guiding principles behind this statement, insights on how it manifests into action, and our next steps, please ([LINK](#))

In 2024, our commencement was marked by nineteen vacant positions, of which we have proficiently occupied seven. The focus now pivots towards fulfilling the remaining twelve positions, encompassing seven full-time roles and five seasonal opportunities. Demonstrating a proactive approach, the Town has implemented strategic measures to discern and engage exceptionally qualified candidates for these roles, acknowledging their pivotal impact on augmenting our Community's overall quality of life. Our unwavering commitment to securing the most fitting candidates is emblematic of our enduring dedication to fostering a thriving environment. This dedication emanates from our steadfast objective of ensuring perpetual progress and well-being for our valued residents.

Economic Development:

We convened our first project kick-off meeting on Wednesday, February 28, welcoming participants Sarah Dunmire and Andrew Knudtsen from EPS to delve into the intricacies of East Eagle Financing and Revenue Strategies. This initiative focuses on unlocking the development and growth potential of the expansive 160-acre East Eagle subarea, aligning seamlessly with the 2021 East Eagle Sub Area Plan. As a pivotal extension of our commitment to economic development, we are currently investigating the integration of a Commercial Linkage

Fee specifically tailored for affordable housing within the Town of Eagle. This forward-thinking study surpasses the boundaries set by the existing Local Employee Residency Program (LERP) for residential housing by establishing a symbiotic relationship between commercial development and affordable housing initiatives. The proposed fee structure will be calibrated considering prevailing market conditions and land-use employee generation rates. This strategic approach perfectly aligns with the Town's dedication to proactively addressing housing needs stemming from commercial development growth in the area.

Outreach & Meetings: *This report will overview recent participation in community outreach opportunities and regional and project-specific meetings. These events offer valuable opportunities to collaborate with stakeholders, stay informed on the latest developments, and contribute to the local Community.*

On Friday, February 23, the Town of Eagle hosted a discussion in the council chambers, drawing active participation from the engaged members of the Eagle Valley community. The focal point of the dialogue revolved around the prospect of introducing a second ice sheet within our Eagle Valley. The potential locations under consideration were explored in depth, encompassing:

- The East Eagle property is situated just east of the cul-de-sac at the terminus of Chambers,
- The Fair/Rodeo Grounds site,
- The existing Eagle Pool and Ice Rink site, and
- An area within the Eagle-Vail subdivision.

Guiding the discussions was Russ Forest, the Town Manager of Vail. The Town's strategic redevelopment plan for the Dobson Ice Rink facility was integral to the discourse. Russ Forest conveyed that Vail envisions commencing construction in the spring of 2025 and is actively seeking a temporary or permanent location to house an additional ice sheet. Also, Vail has committed to an investment of \$1 million to contribute funding for the proposed second ice sheet. This collaborative effort underscores the commitment to enhancing winter recreational facilities within the Eagle Valley.

On Friday, February 23, in collaboration with Nicholas Richards, Community Manager, and Shelley Bellm, Assistant Community Manager at Eagle Ranch Association, a meeting was sought with the Town. The purpose of this meeting was to establish a platform for enhanced and transparent communication between the Eagle Ranch staff and our Town team.

The proposed agenda for our discussion encompasses areas of importance, including:

- Dog Park Improvements – A preliminary conceptual plan layout was presented for potential enhancements to the dog park.
- Snow Removal – Deliberations on the plowing process, particularly addressing issues such as plowing onto sidewalks and clarifying the schedule/priority for plowing. Recognizing the possibility of not being a top priority for snow removal, the Eagle Ranch team seeks a deeper understanding of the snowplowing approach to facilitate more precise communication with Eagle Ranch homeowners.
- Capitol Street Lighting – They propose updating the streetlights to a different style. I recommended that the Eagle Ranch team initiate discussions with the Planning team to ensure alignment with the downtown Eagle Ranch business district's lighting standards.
- Irrigation System and Billing – Challenges have been identified concerning billing for segments of their irrigation systems that are no longer in use.

These discussions aim to foster a collaborative dialogue that will contribute to the continued development and enhancement of the Eagle Ranch community.

I emailed Tanya Allen and Scott Robinson with EVTA on Wednesday, March 6, to invite them to a Town of Eagle Work Session discussion with the Town Council and Staff. I am providing a [\(LINK\)](#) to the email sent.

WORK SESSIONS:

To help the Town Council keep track of upcoming work sessions, below is a table of topics to discuss over the next several months. Preparing in advance is helpful since it takes planning to execute a work session. Staff will keep this table in this report and make changes as needed. The topics are subject to change:

Date	Topic
January 2, Work Session	(Meeting Cancelled)
February 6, Work Session	EVC priorities and goals for 2024
March 5, Work Session	Eagle Quality of Life Initiatives
April 2, Work Session	EVTA tentative
May 7, Work Session	EVTA tentative
Request for Additional Work Sessions	Topic



To: Mayor and Town Council
From: Larry Pardee, Town Manager, and Department Leads
Date: March 12, 2024
Re: Department Updates for February 2024

February 2024

ECONOMIC DEVELOPMENT

- Staff and EPS hosted a kick-off meeting to initiate both the Financing Strategy and Commercial Linkage Study. We are in the data-gathering phase and finalizing the timeline for each project.
- Ongoing co-lead engagement with Kim Fritzler in DCI's Challenge Accelerator Program. Staff and Kim hosted the first stakeholder engagement meeting on February 13 to complete an Eagle Stakeholder Report ([link](#)). A community feasibility tetrad, project pitch sheet, and brownfield site assessment are also underway. These sub-projects will be deployed in Challenge Community workshops at the *In The Game* conference in April.
- Staff participated in the first Eagle Chamber Advocacy Committee meeting. The Advocacy Committee aims to enhance the ecosystem for both established businesses and emerging ventures by fostering their growth and expansion. The target areas of focus include business tools, resources, and education.
- Staff and the Economic Vitality Committee (EVC) conducted a work session with Town Council to present 2024 priorities from the Economic Development Plan. Staff and EVC have further refined the matrix of this year's actions and goals.
- Staff and members of the Downtown Development Authority (DDA) are collaborating on a grant application for the Rural Economic Development Initiative (REDI) Program. If awarded, the grant would leverage the DDA's tax increment funds to jump start the Downtown Project Investment Program ([link](#)) aimed at funding items such as public and private property improvements, public amenities, and facade enhancements.

HOUSING

- Staff held a virtual introductory meeting with Margie Joy, Western Slope Relationship Manager from Colorado Housing and Finance Authority (CHFA). The collaborative discussion explored the Town's broader housing initiatives, projects, and needs.
- Town of Eagle has received an official notice and award to participate in the upcoming round of Division of Housing's (DOH) Affordable Housing Toolkit for Local Officials. The technical assistance goals are two-fold: 1) develop a strategy for attracting affordable housing developers, and 2) develop a strategy for the Town's affordable housing program including a program structure document and a housing fee in-lieu policy. Currently, the anticipated timeline for engagement is March-July.
- Ongoing coordination with the Regional Housing Action Plan Partners. RRC Associates and EPS are leading the Partners through the formation and imminent launch of the 1) household and 2) employer housing-needs surveys. Both surveys will be dispersed throughout Eagle County and open for participation through early April.

- Conducted exploratory calls with Colorado Department of Local Affairs (DOLA) and Division of Housing (DOH) to discuss grant opportunities under the Energy/Mineral Impact Assistance Fund (EIAF) Program and Main Street LIVE that could support Old Town Hall redevelopment. Staff will go before the Council on March 12 to present the project and potential funding opportunities in greater detail.
- The Town has been awarded a Local Planning Capacity grant of \$54,400 from DOLA to support the Town of Eagle's Affordable Housing Accelerator Project. This project will help the Town establish the 90-day fast track process for affordable housing projects per the Prop. 123 commitments, conduct a land inventory for affordable housing potential on public property, and develop a Prop. 123 funding strategy to support a sustainable affordable housing program.

SUSTAINABILITY

- Engaged with our ICLEI (Local Governments for Sustainability) Advisor to leverage our membership and outline our support for the year. This will include technical support to complete our government operation's greenhouse gas emissions inventory, joining the Sustainability Planning & Implementation Cohort, and the Sustainability Communications cohort.
- Sustainability staff performed research on various energy management systems, including outreach to nearby local government staff for lessons learned and best practices when procuring such a system. Staff ultimately determined that the town will issue an RFP for an energy management system and continues to craft that document.
- Sustainability staff and TOE Public Works Director attended the February Holy Cross Energy Board meeting to provide insight on the rate exception request signed by the town council during the January 23rd town council meeting. Holy Cross Energy continues to deliberate this request.
- Supported events staff with the upcoming Hard2Recycle Event & Town Cleanup event planning.
- Developed a preliminary sustainability communications plan for now through mid-summer 2024.
- Sustainability staff organized an all-staff Net Zero Lunch & Learn on Feb. 29th with support from the Assistant Town Manager. This is the first of many events to educate our employees on our net zero goals and to empower them to participate in achieving those goals.
- Attended the Climate Action Collaborative board meeting as board chair in Councilman Grimmer's absence.
- Sustainability community funding was approved for the Adam Palmer Sustainability Fund (APSF) Brush Creek Elementary School Greenhouse Project during the Feb. 27th council meeting. Staff continues to finalize the funding agreements with both the Beyond Lawn Program and APSF.

SPECIAL PROJECTS

Pool Replacement Project

- **Community Meeting - Thursday, March 28 from 4:30 p.m. – 7 p.m. at the Eagle Pool and Ice Rink.** We'll be reviewing the final design of the pool with the community.
- The final approval for the Great Outdoors Colorado Grant is scheduled for March 15th at the GOCO Board meeting. The award will fund an additional \$500,000 for pool amenities like splash features and water slides, \$100,000 for shade, landscaping and a water station at the new bike park, \$100,000 for shade structures and amenities at the BMX track, and \$30,000 for design and planning of the future skate park.
- Staff and the contractors have submitted the minor development application to the Community Development Department and are reviewing the referral response questions and comments. The project slated for presentation to Planning and Zoning Commission on April 16th.

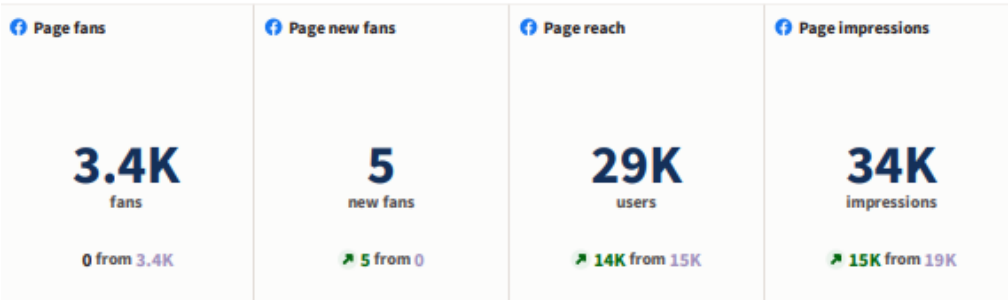
Culture Journey - Culture Statement Update

- Staff have been working on establishing a culture statement to serve as our guiding principle for what it means and looks like to work at the Town of Eagle. This is a critical first step as we embark on our culture shift journey to strengthen staff's connection to the organization's mission, vision and values, increase collaboration and foster more cohesion across all departments.
- The initial statement has been finalized: *Fostering teamwork through inclusivity, empowerment and understanding*. The next steps include gathering additional staff input to define these terms and what they mean in action.
- Staff are planning to attend the March 26th Town Council meeting to present more details on the statement as well as the plan for additional employee engagement and training in 2024 and beyond.

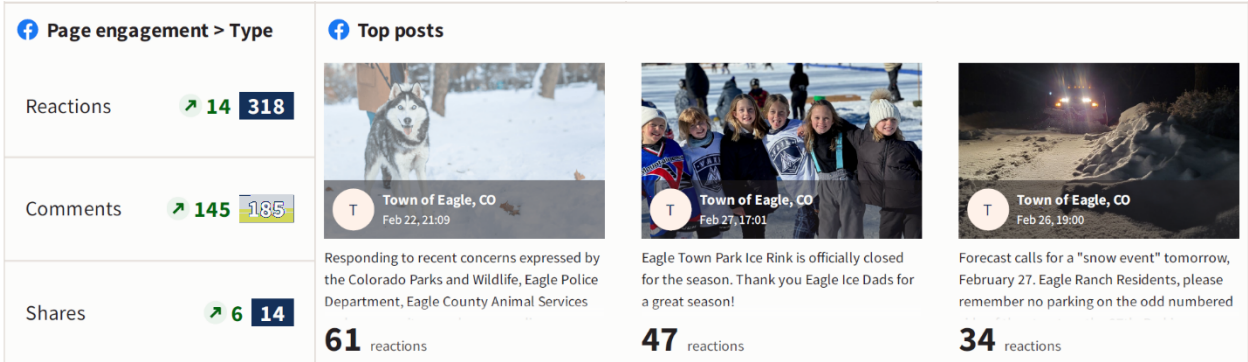
COMMUNICATION & MARKETING

February 2024

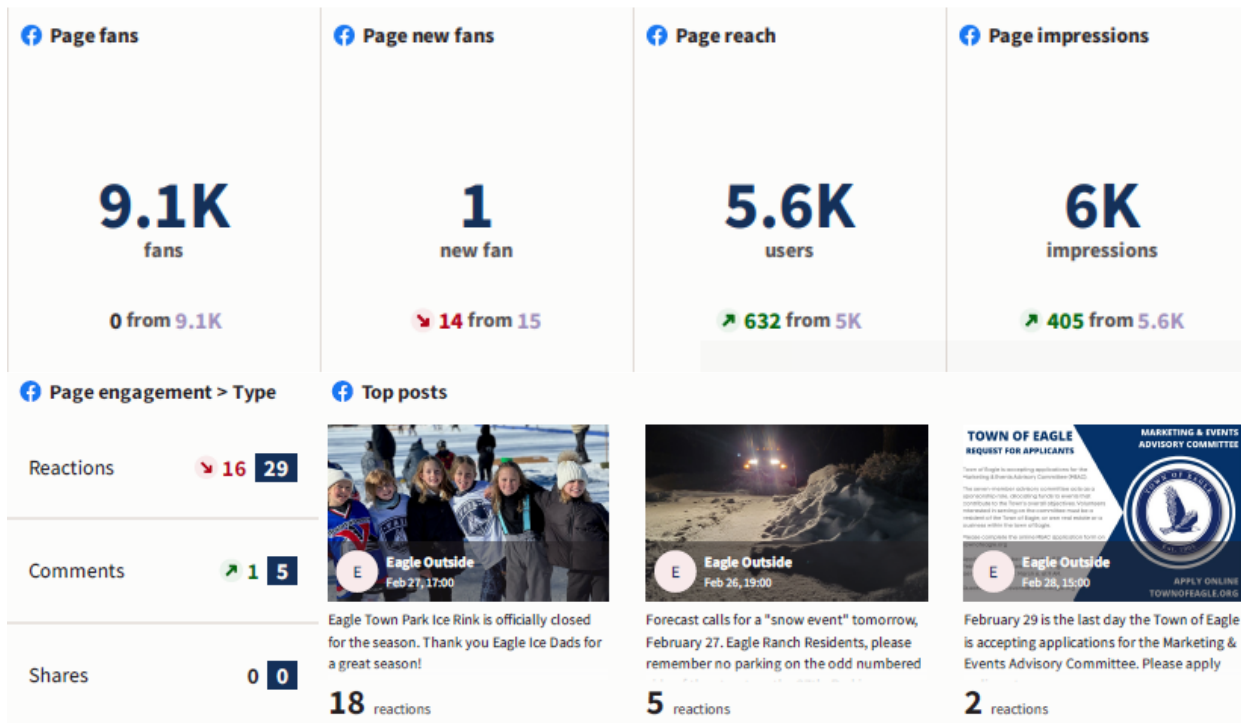
- Work is underway on a Communications Strategy that will address external, internal, and crisis communication, as well as meet the needs of the Spanish-speaking community. This will include internal discussions and input with the Council. Items from the upcoming council retreat and internal culture work will be emphasized.
- Addressing HB21-1110: new legislation that goes into effect July 1 regarding digital accessibility for local and state governments. Jamie and Madison are taking the lead on creating an internal task force and beginning to tackle the project. “Final Rules” were announced by the state.
- Coordinating with Mountain Recreation to share information on the upcoming GOCO grant announcement, March 28 open house, and a fundraising campaign for the shade structure.
- Met with Vail Daily Editor Nate Peterson. The Town of Eagle does not have a dedicated reporter so information will filter through Nate. Discussed story ideas including a water plant tour, sustainability initiatives, the Police Chief search, and a few others.
- Meetings underway with Walking Mountains for EV Ride ‘N Drive event planning.
- Maddison and Jamie met with Eagle County Sheriff’s PIOs to discuss crisis communications coordination and planning.
- Meetings have been held with staff to assess their communication and marketing needs. A “Content Scheduler” is being created where staff can upload project needs and filter information to Jamie to create a more proactive communications approach.
- Discussion regarding Eagle’s brand was had during the Economic Vitality Committee meeting. This will be a broader discussion in the future with internal, Council, and public input as it relates to the town’s overall brand.
- Met with Michelle Morgan and Rick Beverage with the Eagle Chamber to discuss how we can work together.
- See below for February 2024 Media Reporting



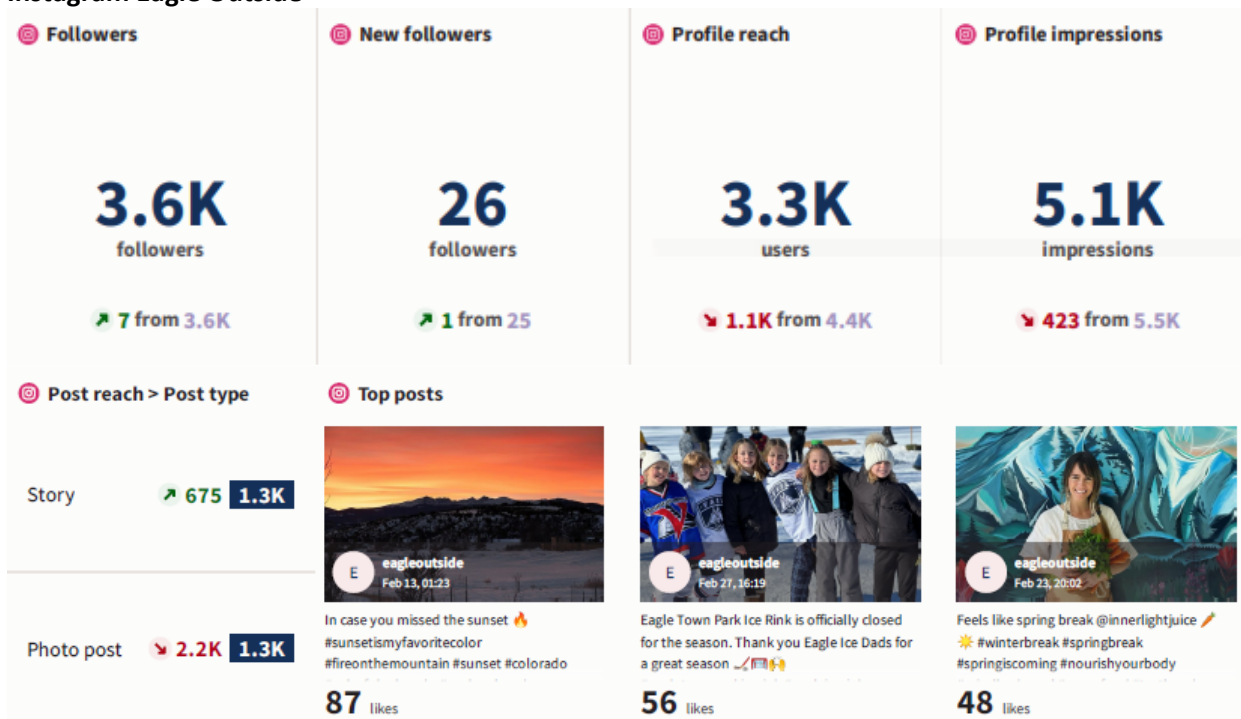
Town of Eagle Facebook



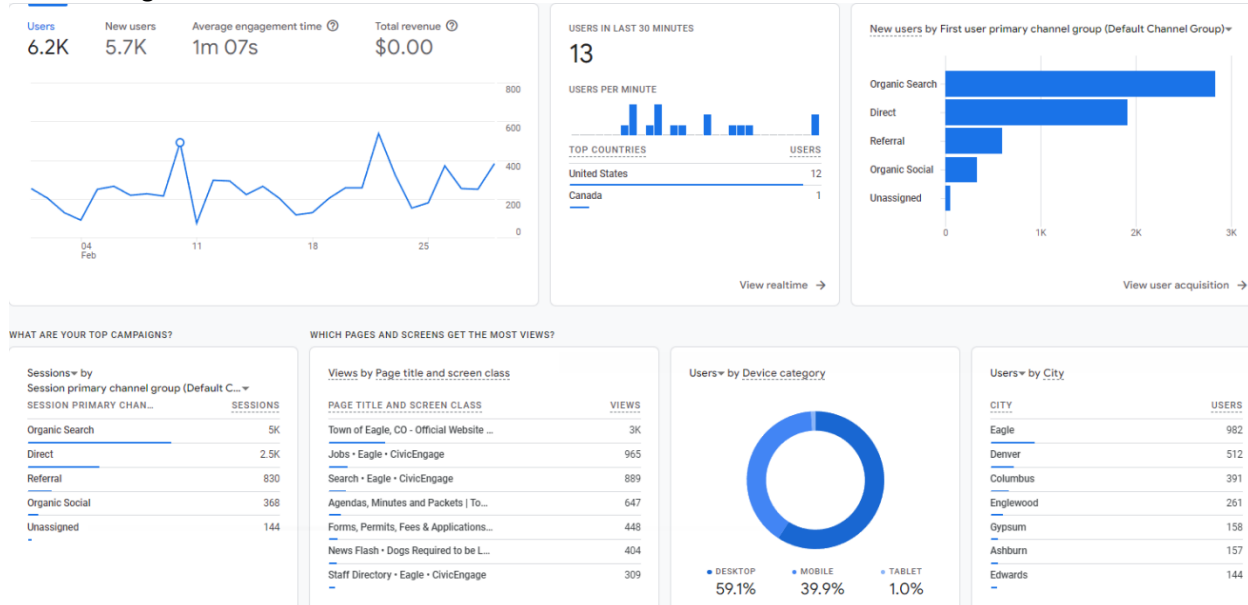
Eagle Outside Facebook



Instagram Eagle Outside



Town of Eagle Website



WHAT ARE YOUR TOP CAMPAIGNS?

Sessions by Session primary channel group (Default Channel Group)

SESSION PRIMARY CHANNEL GROUP	SESSIONS
Organic Search	5K
Direct	2.5K
Referral	830
Organic Social	368
Unassigned	144

WHICH PAGES AND SCREENS GET THE MOST VIEWS?

Views by Page title and screen class

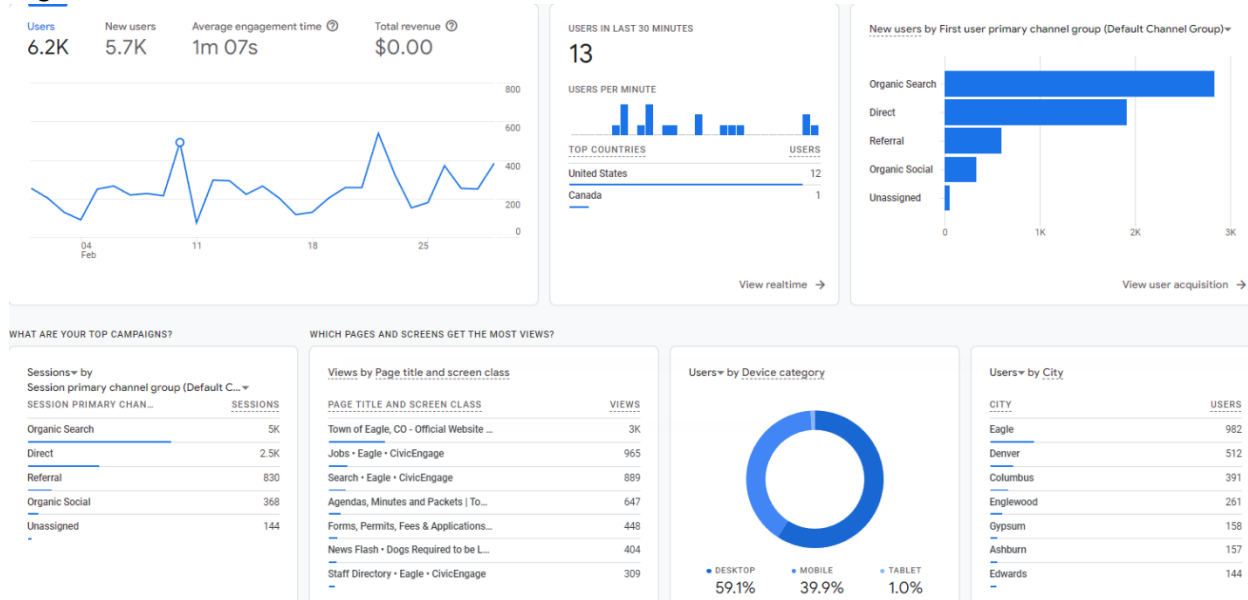
PAGE TITLE AND SCREEN CLASS	VIEWS
Town of Eagle, CO - Official Website ...	3K
Jobs • Eagle • CivicEngage	965
Search • Eagle • CivicEngage	889
Agendas, Minutes and Packets To...	647
Forms, Permits, Fees & Applications...	448
News Flash • Dogs Required to be L...	404
Staff Directory • Eagle • CivicEngage	309

Users by Device category

Users by City

CITY	USERS
Eagle	982
Denver	512
Columbus	391
Englewood	261
Gypsum	158
Ashburn	157
Edwards	144

Eagle Outside Website



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Eagle Today	2,000 Total Opens	235 Total Clicks
Eagle Spirit	178 Total Opens	118 Total Clicks

SPECIAL EVENTS & MARKETING

February 2024

Marketing & Events Advisory Committee (MEAC)

- Town received 7 applications for the advisory committee. Recommendations will be made to Council in April.

MARKETING

- Working with CivicPlus on townofeagle.org refresh to update colors, photos - layout & color approval submitted.
- Continued efforts to promote events and community programs on social media, @eagleoutside

MEETINGS

- Eagle Egg Hunt – New Location – Brush Creek Park, Saturday, March 30th
- Eagle Challenge Accelerator Intro Meeting
- Town of Eagle to host Chamber Mixer, co-host Adam Palmer Sustainability Fund on April 18
- Met with Michelle Morgan, Eagle Chamber, about possibly hosting a Beer Garden at Flight Days
- Partnering with Kyle Jessup, Alpine Kayak, to teach Youth Whitewater Safety event on July 12
- Andrew Odlin, local artist to create Flight Days poster
- Gina McCrakin to discuss Art in Eagle
- Town Cleanup & Hard2Recycle - partnering with Eagle Ranch HOA, Vail Honeywagon, Trinity Recycling, ACT enviro on this year’s event, MAY 4
- Kim Fritzler, with K2T Collective, will host the Color Fun Run at Flight Days - start & finish line at Town Park
- Tipi Raisers call to action for Native American vendors for Flight Days
- Sage Outdoor Adventures to possibly host Whitewater Wednesdays at the River Park in May
- Eagle Farmers Market interested in returning to Eagle on Saturdays (Edwards Corner cancelled)
- Organized Employee Appreciation Day

UPCOMING EVENTS

MARCH	
Saturday, March 30	Eagle Egg Hunt at Brush Creek Park

INNOVATION TECHNOLOGY

February 2024

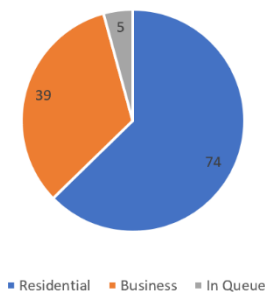
Projects:

- Camera and access control project approximately 90% complete. Expected to be completed in Q1 2024.
 - Change order to add Panic buttons for Council Chambers and additional cameras on north side of Town Hall submitted.

Broadband update:

- 39 business subscribers, 74 residential subscribers, 5 in installation queue, 7 signups in January
- Broadband revenue generated in November: \$7938.54

Broadband Subscribers



Training:

- PubWorks B&G and Streets - Windows PC login and Timecard Training - 2/8 and 2/12
- Human Resources Manager - Bookings Configuration and Training - 2/15
- Building and Grounds Manager - One on One Timecard Training - 2/28

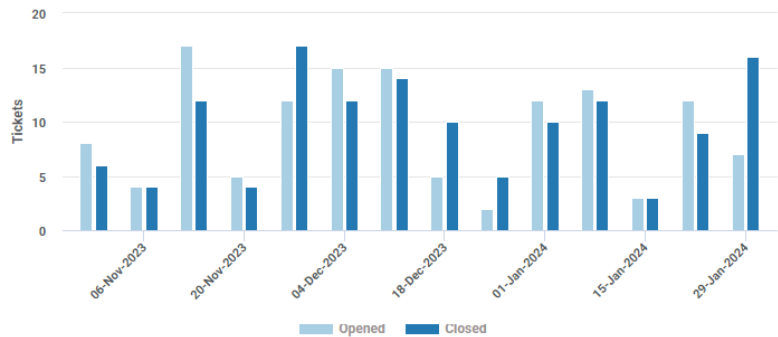
Technical Operations:

- Support ticket report:

130 Tickets Opened Previous 3 Mont...

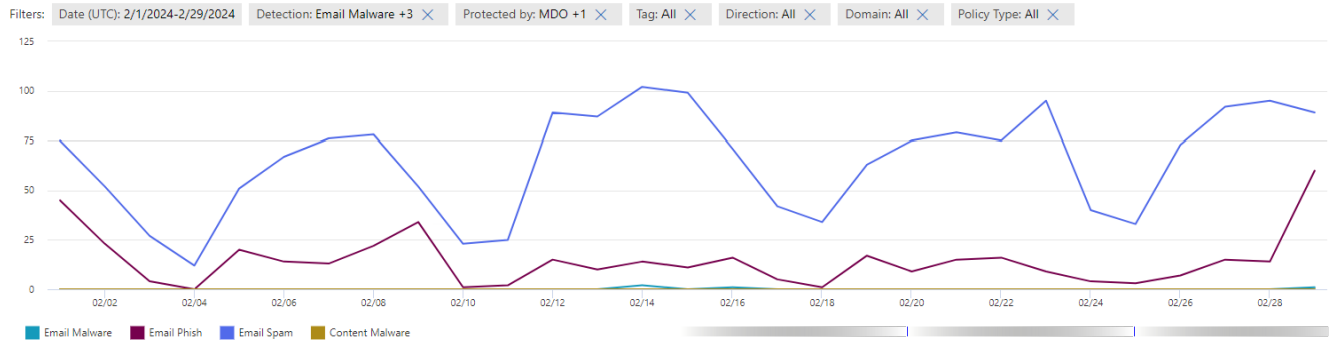
134 Tickets Closed Previous 3 Months

Tickets Opened Vs. Closed - Previous 3 Months



- Email threat protection report for February:
Threat protection status

The Threat protection status report provides information about threats found prior to email delivery, covering relevant detection technologies, policy types, and delivery actions. [Learn more about this report](#)



FINANCE DEPARTMENT

February 2024

Administration/Financial:

- **Conservation Trust Fund:** Staff completed and submitted the 2023 annual Conservation Trust Fund report to the State.
- **Quality of Life Initiative** – Staff met with Bill Wray to discuss the Quality of life Initiatives and potential debt service projection. Finance worked with an underwriter to obtain debt projections for a \$20M and \$30M bond. Once received, Staff provided an analysis to Bill regarding what the annual debt service would mean for potential sales tax or property tax increases to cover annual debt service. This was shared to Council during March's worksession.
- **Fiscal Impact Analysis Review** – Finance worked with Comm Deve to review FIA's for the following
 - West Eagle
 - North Broadway
 - Finance is working with Comm Dev on creating guidelines and a checklist for applicants so they better understand what the Town is looking for in a Fiscal Impact Report and so the Town receives a standardize type of Fiscal Impact Report that is meaningful for review purposes.
- **Grants:** Assisted staff with the following Grants
 - RAISE – Final Submittal for \$25M for Grant Ave
 - JAG – Application assistance for 2 additional patrol vehicles - \$190,148
 - REDI – Discussion with Staff and review of REDI grant for DDA Project Investment Program \$80K
- **Short Term Rentals:**
 - STR Active Permits – 15
 - STR Closed Permits – 6
 - STR Permits in process – 4 accounts (sent out initial outreach letter)
 - Revenue Collection:
 - January 2024: \$1,701 (*compared to 2023: \$2,977 – (42.9% decrease)*)
 - **Compliance:**
 - Staff continues to wait on additional information from GovOS and will continue to follow up until they are able to provide a solution. Their latest response on the issue:
“We think it is a problem with our geocoding tool (basically the ad is getting loaded into our system but is not getting put in the right jurisdiction). This should only impact a very small number of listings in locations that are sort of on the border of other jurisdictions - in Colorado this is mostly happening on listings that are on mountain roads with minimal development. Geocoders broadly have a difficult time dealing with those for some reason. We are exploring switching to a purpose-built Geocoder that is specifically designed to work with jurisdictions with tricky boundaries like Eagle.”
 - In the meantime, finance staff are reviewing STR online manually.
- **Quality of Life Initiative** – Staff met with Bill Wray to discuss the Quality of life Initiatives and potential debt service projection. Finance worked with an underwriter to obtain debt projections for a \$20M and \$30M bond. Once received, Staff provided an analysis to Bill regarding what the annual debt service would mean for potential sales tax or property tax increases to cover annual debt service. This was shared to Council during March's work session.

Payroll/HR:

- Positions changes in payroll
 - 2 New Hires –
 - Maintenance Technician/Equipment Operator - Streets
 - Maintenance Technician/Equipment Operator – Buildings & Grounds
 - No Terminations in February
- Workers Comp Audit: Submitted all information for 2023 workers compensation audit and will be finalized in March.
- Workers Compensation Policy – Updated guidelines to include more detail for staff regarding
 - Clarification on Part-Time Return to Work
 - Holiday Pay during Workers Comp lost time
 - How Health Insurance Premiums are collected during lost time

Training:

- ICMA High-Performance Leadership Academy – Jill
- Caselle – Quarterly Training Webinars – All Staff

Accounts Payable:

ACCOUNTS PAYABLE: INVOICES PAID							
	2020	2021	2022	2023	2024	VARIANCE FROM PY	
JANUARY	205	230	249	285	280	(5)	-2%
FEBRUARY	237	217	254	212	278	66	31%
YEAR TO DATE	442	447	503	497	558	61	12%

Utilities:

- **February 2024:**
 - Property Transfers – 0 (YTD – 9)
 - New Account Set Up – 3 (YTD – 4)
 - Utility Red Tags – 21 (2024 monthly Average 22)
 - Water Shut Offs – 0 (2024 monthly Average 0)
- **Water Fill Station Billing** – Finance completed the water fill station billing set up through Caselle and Xpress Billpay.
- **Water Usage and Budget v. Actual:**

Water Usage (In Thousands)									
MONTH	2019	2020	2021	2022	2023	PRIOR 5 YR AVG	2024	CHANGE OVER AVERAGE	
JANUARY	18,569	17,925	16,564	16,602	15,660	17,064	15,813	(1,251)	-7%
FEBRUARY	15,554	15,981	15,538	14,503	18,016	15,918	16,630	712	4%
TOTAL YTD	34,123	33,906	32,102	31,105	33,676	32,982	32,443	(539)	-2%

**Town Council Department
Budget to Actual:**

TOWN OF EAGLE
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 2 MONTHS ENDING FEBRUARY 29, 2024

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>TOWN COUNCIL</u>					
10-49-110 SALARIES & WAGES	3,800.00	7,600.00	45,800.00	38,000.00	16.7
10-49-142 WORKERS COMPENSATION	.00	.00	56.00	56.00	.0
10-49-143 HEALTH & INSURANCE BENEFITS	.00	.00	168.00	168.00	.0
10-49-144 FICA - EMPLOYER'S	290.70	581.40	3,488.00	2,906.60	16.7
10-49-225 UNIFORMS	.00	.00	500.00	500.00	.0
10-49-320 LEGAL NOTICES	.00	.00	1,500.00	1,500.00	.0
10-49-347 PROFESSIONAL SERVICES	3,500.00	3,500.00	23,000.00	19,500.00	15.2
10-49-371 TRAVEL EXPENSE	.00	.00	5,250.00	5,250.00	.0
10-49-372 MEETING EXPENSE	.00	.00	16,750.00	16,750.00	.0
10-49-380 TUITION & BOOKS	.00	.00	6,000.00	6,000.00	.0
10-49-510 INSURANCE	.00	.00	831.00	831.00	.0
10-49-815 COMMUNITY REQUESTS	2,663.00	40,878.00	50,000.00	9,122.00	81.8
TOTAL TOWN COUNCIL	10,253.70	52,559.40	153,143.00	100,583.60	34.3

HUMAN RESOURCES

February 2024

Benefits

- Administering 2 FMLA/MLA claims
- Assisted 3 staff members with general benefits questions
- Annual salary data updated to benefits providers

Compensation –

- Continued efforts on compensation messaging and Pay Plan updates
- Completed 2 salary survey requests

Risk Management, Safety and Work Comp

- Managing 8 Total General Liability & PC Open claims
 - 2023 total claims = 16 (12 closed)
 - 2024 total claims = 5
- Managing 2 Work Comp Claims
- Updated Work Comp Claim procedures with Finance assistance

Recruiting – Onboarding

- New Supervisor onboarding conducted for Town Engineer
- Benefits and Handbook Orientation held for 2 new hires, processed enrollments
 - B & G Maintenance Tech II
 - Streets Maintenance Tech I
- 2024 started with **19** open positions:
 - **14** full-time open positions, (6 of those positions carried over from the 2023 budget) and
 - **5** seasonal positions (1-Open Space, 1-Refuse & 3-B & G Seasonal staff)
 - 5 positions currently in progress
 - Police Chief, Meet & Greet on 4/4, Final interviews 4/5
 - PW Inspector, interviewing 3/11
 - Community Development Director, screening candidates
 - Utility Meter Technician, screening candidates
 - Police Officer - 2
- 2023 ended with **37** positions filled

HR Administration, Training, Translation Assistance

- Attended 5 hours of HR & Leadership webinars for recertification due 03/30/2024

Other

- Processed 3 verifications of employment
- Assist with Employee Recognition for employee newsletter
- Assist with Food prep for Employee Appreciation Day

COMMUNITY DEVELOPMENT

February 2024

LONG RANGE PLANNING

ReCode Eagle – The Land Use and Development Code (LUDC)

- Staff is preparing application forms and checklists and addressing other various administrative tasks.
- Municode upload to be completed in early 2024. The previous version of the Land Use and Development code will still be available to the public as an archived version.
- The new ReCode available here: [Land Use and Development Code Effective 10/23/2023 | Town of Eagle, CO - Official Website](#)
- Staff is cataloging questions from the Public, tracking items for technical changes and researching Code Sections to determine where amendments may be necessary.
- In the next couple of months, staff will bring forward corrections and adjustments to the Land Use and Development Code. The tentative schedule for this initial Code clean-up effort is as follows:
 - 3/19 - bring amendments to Planning Commission in a work session
 - 4/16 - bring amendments to Planning Commission at a public hearing
 - 5/14 - bring amendments to Town Council at a public hearing

LAND USE APPLICATIONS IN PROGRESS

For more information and to access project documents, visit the Town's [Active Land Use Applications Page](#).

- **AN23-01: West Eagle Housing**
 - The project consists of 9.5 acres and 113 units within 23 buildings. Applications include annexation, zoning, major development permit, and subdivision. Proposed lot area/dwelling unit is 3,278 SF, which is ~13.3 units/acre
 - No public hearings scheduled.
- **PUDA23-01: Haymeadow Major PUD Amendment**
 - This Project is a Major PUD Amendment within the Haymeadow development to:
 - Reverse the RMF-5 land swap;
 - Update the intended alignment of the extension of Sylvan Lake Rd
 - Update the conceptual/development plan
 - Revise the PUD Guide to align with ReCode and current best practices.
 - PUD Amendment application is paused until such time as the ADA Amendments are completed.
 - No public hearings scheduled
- **HYMD23-05: Haymeadow ADA Amendment**
 - This application consists of a focused update to Haymeadow's Annexation and Development Agreement, more information will be provided in the next update.
 - Negotiations between the Town and the applicant are ongoing
- **AN23-02 Annexation/RZ23-02/PUD Plan23-01 PUD Zoning Plan: North Broadway**
 - Low income and for-sale housing with limited commercial new development that includes: 1) Annexation and initial zoning of 2.248 acres of the Ping Lane parcel and 1.193 acres of the Brooks Lane parcel to HD/C-PUD; 2) Rezone of 9.236 acres of the Ping Lane parcel from Rural Residential to Planned Unit Development and 4.296 acres of the Brooks Lane parcel from Mobile Home Park/Planned Unit Development (MHP/PUD) to Planned Unit Development; and 3) PUD Zoning Plan for the entire property utilizing the newly adopted CMU-1 zone district as

the underlying framework.

- Project Location: 101 Ping Lane and 404 Brooks Lane properties located north of Eagle's Central Business District between the railroad and the Eagle River.
 - Application has not been deemed complete
 - Public Hearing Schedule: None
- **PUDA24-01 Reserve at Hockett Gulch**
 - This project is a Minor PUD Amendment to review the minimum width standard from the drive aisle from Section 8 of the PUD Guide.
 - Minor PUD Amendment are reviewed administratively.

ADDITIONAL UPDATES:

- Staff have been fielding significant numbers of calls, emails and meeting requests about uses permitted under the new Code, as well as reviewing timelines, process and procedures.

MAJOR CONSTRUCTION PROJECTS

Business Name	Location	Status
Second Street Tavern	127 W Second St.	Staff is currently waiting on a certificate of insurance which is required before an encroachment permit can be issued. Their previous insurance certificate expired in March 2023. Also, the applicant requested revisions to the encroachment permit, including undisclosed improvements for additions to the 2nd street ROW. CO can be issued after the encroachment permit is final.
Foodsmith	318 Broadway	Working toward building final *Noteworthy: Retail food sales & cooking class.
Eby Creek Apts.	435 Eby Creek	Complete w/Permanent CO
Hockett Gulch Apts.	16186 Hwy 6	TCO pending for Clubhouse and Building #2 (102 Mount Eve). Trailhead restroom - Shaw resubmitted revising cost comparison. Forwarded Community Development department's request for color rendering of restroom for TOE Packet. Development Agreement revision with Kendra for drafting, revision will adjust deadlines for Grand Ave. entrance and irrigation system items. Back to Kendra for adjustment, Town needs to confirm time frames for task completion. Drywall in Building 2 and Clubhouse complete. Building 1 has started drywall stage at upper levels.
410 Broadway Project	410 Broadway	TCO issued occupancy of dwelling units.
City Market Remodel	0103 Market St	Interior work completed. Parking lot improvements (re-configuration) still pending.
Haymeadow	91 Mountain Hope Circle	Foundations for last two buildings pending and framing of five buildings in progress. First building sheetrocked and interior finish in progress. Continued work needed on Conditions of Approval / tracking of COA's

Habitat for Humanity	3 rd Street	All building permits issued and foundation work for last building just completed. Most of the dwelling units have been set on foundations and construction of garages in progress.
Slope and Hatch	115 East Second St Unit 1	Construction work commenced. Sign Permit issued.
High Country Hearth Showroom	115 East Second St Unit 4	Permit issued. Work in progress.
Desmond Builders Office	410 Broadway South Unit	TCO issued
C&C Plumbing and Mechanical	82 Chambers Ave	Both buildings under construction

The figures below show general activity levels not broken down by permit type (building, electrical, plumbing, mechanical, etc.)

TYPE OF WORK PERFORMED	EOY 2023	YTD 2024
Inspections (n/i Planning, Public Works)	1,885	397
Permits Processed	411	70

P&Z and Council Meeting Schedule

February 2024
February 6 th (Planning Commission) - Cancelled
February 13 th (Town Council)
February 20 th (Planning Commission) Haymeadow Major PUD Amendment
February 27 th (Town Council)
March 2024
March 5 th (Planning Commission) - Cancelled
March 12 th (Town Council)
March 19 th (Planning Commission) ReCode work Session
March 26 th (Town Council) P&Z Appointments
April 2024
April 2 nd (Planning Commission)
April 9 th (Town Council)
April 16 th (Planning Commission) DR24-02 Eagle Pool Project ReCode Amendment
April 23 rd (Town Council)

EAGLE POLICE DEPARTMENT

February 2024

2024 February Calls for Service: 978
2024 Jan.-Feb. Calls for Service: 2,008

2023 February Calls for Service: 862
2023 Jan.-Feb. Calls for Service: 1,868

<i>Agency Assist – 18</i>	<i>Harassment – 8</i>
<i>Assault -- 1</i>	<i>Juvenile/Family Incident -- 8</i>
<i>Burglary –</i>	<i>Missing/Recovered * Juvenile – 1 Adult- 1</i>
<i>Burglary False Alarm – 11</i>	<i>Motor Vehicle Crash/Assist – 31</i>
<i>Child Abuse Investigations -- 0</i>	<i>Narcotics -- 0</i>
<i>Citizen Assist – 27</i>	<i>Noise – 3</i>
<i>Civil – 2</i>	<i>Parking problem/violation – 68</i>
<i>Code Violation -- 3</i>	<i>Protection Order Violation -- 1</i>
<i>Damage/Vandalism – 2</i>	<i>Sex Assault -- 0</i>
<i>Death -- 2</i>	<i>Misconduct Investigations -- 0</i>
<i>Disturbance – 13</i>	<i>Sex Offender Check/Registration -- 0</i>
<i>Dogs Leash, Welfare or Noise (EPD and not A.C.) -- 4</i>	<i>SRO Related – 14</i>
<i>DUI/D -- 2</i>	<i>Suicidal/Welfare – 11</i>
<i>DUR -- 0</i>	<i>Suspicious Person/Vehicle/Occurrence – 37</i>
<i>F or M Menace/Assault/Weapons-</i>	<i>Theft – 5</i>
<i>Fire/Medical – 11</i>	<i>Trespassing -- 2</i>
<i>Fraud – 4</i>	<i>Warrant Arrest – 2</i>
	<i>Wildlife Animal -- 7</i>

Code Enforcement Officer Delp is working on a three-step process project that entails assessing needs for zoning on Broadway with the goal of bringing all properties into compliance. This roughly 2-3-month plan will begin with education in the form of general compliance letters to property owners on the entire street. These will be followed up with letters detailing specific violation information. Properties found out of compliance will be given time to bring their violations up to code and a defined amount of time, property owners that remain out of compliance will be served with summonses to court.

Our patrol team completed winter driving training hosted by CIRSA in Georgetown. Interim Chief Buhlman attended the Colorado Chiefs of Police (CACP) Conference in Broomfield. Sergeant Causey completed his recertification as a Krav Maga instructor. Officer Heil completed instructor training from the National Tactical Officer Association's Response to Suicidal Subjects course and plans to share this information with the team as part of our upcoming in-service training. Officer Nick Deering and Officer Tyler White completed the Field Training Program and are happy to serve and protect our community. Feel free to say hi and stop and chat with them when you see them.

Sergeant Suehrstedt completed phase 2 of rigorous training and passed the testing to become certified as a Drug Recognition Expert (DRE). DREs are law enforcement officers trained to recognize impairment in drivers under the influence of drugs other than, or in addition to, alcohol. The International Association of Chiefs of Police (IACP) coordinates the International Drug Evaluation and Classification (DEC) Program with support from the National Highway Traffic Safety Administration (NHTSA) of the U.S. Department of Transportation. This certification allows Sergeant Suehrstedt to act as a vital resource not only for Eagle PD, but for other law enforcement agencies in our valley. Officers are continuing with snow event parking through enforcement and education in Eagle Ranch. Parking warnings are being issued and Officers are speaking with vehicle owners to better educate them on what snow event parking entails. As a reminder, parking regulations are designed to aid with the enhanced quality of life offered in the Town of Eagle.

February 15th was National School Resource Officer Day. We'd like to recognize our SRO Dominik Sriver for his contribution towards the safety and security of Eagle schools and students!

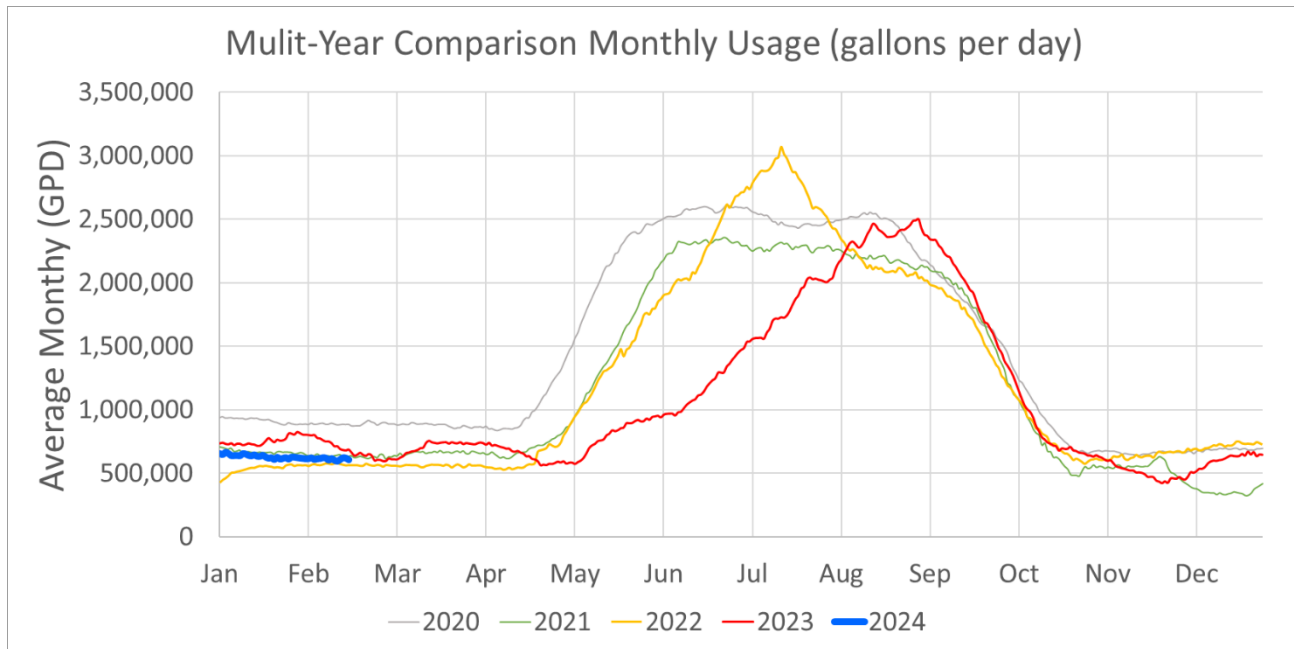
MUNICIPAL COURT		February Statement	
Court held February 7th & 21st			
Citations Issued	Current	YTD	2023
Animal Control	12	14	109
Juvenile	0	0	16
Misdemeanor/Ordinance	2	2	9
Parking	12	39	175
Traffic	12	23	119
Total	33	78	456
Fines and Fees Collected (includes collections for previous months)	Current	YTD	2023
Court Costs	\$ 90.00	\$ 180.00	\$ 1,135.00
Criminal Police Equipment and Training Surcharge	\$ 40.00	\$ 60.00	\$ 510.00
Traffic Surcharge	\$ 250.00	\$ 480.00	\$ 2,830.00
Deferred Judgment Fee	\$ -	\$ -	\$ -
Fines	\$ 2,235.00	\$ 3,845.00	\$ 26,032.50
Outstanding Judgement Fee	\$ -	\$ -	\$ -
Stay of Execution Fee	\$ -	\$ -	\$ 145.00
Bad Check Fee	\$ -	\$ -	\$ 25.00
Warrant Fee	\$ 50.00	\$ 130.00	\$ 100.00
Failure to Appear	\$ 140.00	\$ 385.00	\$ 3,140.00
Victim Restitution Fee	\$ -	\$ 25.00	\$ 1,059.31
Total	\$ 2,805.00	\$ 5,105.00	\$ 34,976.81
Dispositions (Payments or Court Appearances)	Current	YTD	2023
Animal Control	7	12	109
Juvenile	0	0	19
Misdemeanor/Ordinance	0	0	8
Parking	20	40	171
Traffic	14	19	128
Total	41	71	435
Outstanding Fines and Fees At Collections & by Date			
Current	\$ 1,205.00		
1-30 Days Past Due	\$ 450.00		
31-60 Days Past Due	\$ 495.00		
61-90 Days Past Due	\$ 50.00	**At Collections	
91-180 Days Past Due	\$ 15,329.00		
Total	\$ 17,529.00		

PUBLIC WORKS

February 2024

Water (Stephen Wilson, Utilities Manager)

- Currently staff are working to identify and contact customers for backflow devices that have not been tested in 2023.
- An approach to completing a lead service line inventory and replacement plan is in progress and due in 2024. This will combine records research and field verification of both Town-owned and customer-owned service line segments.
- Weekly water production has increased to around 0.605 million gallons per day (MGD) in February. This is down by about 300,000 gallons per day compared to 2020 but consistent with the same period in 2021, 2022, and 2023.



- Spare parts for hydrant diffusers, and fire hydrant repair kits are being ordered in preparation for 2024 flushing and maintenance.
- The raw water control valve and actuator for the Upper Basin Water Treatment Plant have been identified as in the early stages of failure through troubleshooting. A replacement valve and actuator are ordered with an expected lead time of 18-22 weeks.
- Improvements are being scoped for the Brush Creek PRV. These will allow for the Upper Basin Plant to be turned down over the summer for rehab work on the storage tank.
- 2 MG storage tank at the Upper Basin Water Treatment Plant and 1 MG Lower Eby Creek Tank: Preliminary design is in progress for the two viable alternatives for the Lower Eby Creek tank site and 2-million-gallon tank rehab.
- Brush Creek was flowing at approximately 25 CFS at the upper diversion.
- East Eagle Tank: Geotechnical and survey fieldwork have been completed before winter. Preliminary design for the water storage tank design can now start.
- Cemetery Tank replacement design is ongoing and is in the approval process with CDPHE and Eagle County.
- West Eagle development hydraulic model is in progress for both the distribution system and collection system.

Wastewater (Stephen Wilson, Utilities Manager)

- The initial phase of the Wastewater Treatment Facility (WWTF) improvements project has identified a preferred control methodology and initial equipment selection. These improvements are intended to reduce energy consumption, improve plant controllability, and improve the plant's effluent quality.

- WWTF Lift Station: A raw water pump for the sewage lift station was set out for a repair quote. Due to the pump's age and cost of repair nearing the value of a new pump, staff are moving forward with a pump replacement over rehab.
- WWTF Headworks: Parts of the raw wastewater screening and grit removal system have been ordered. The new replacement parts should improve operations and reduce water being captured in the grit and trash removal process. The lead time is 10 to 12 weeks.

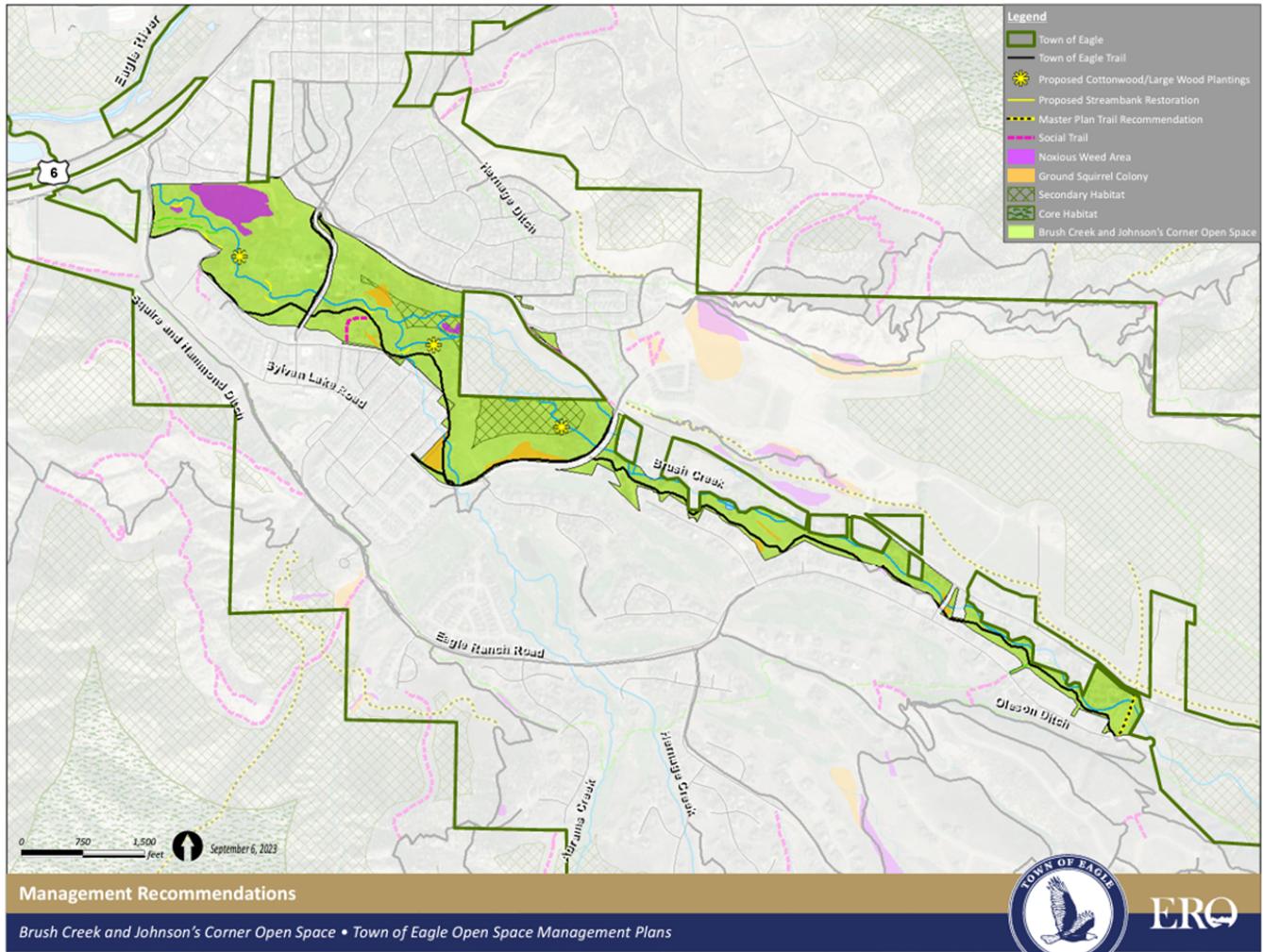


- Flows and loads in February were slightly above historical averages with the plant treating approximately 0.55 million gallons per day (MGD) in February. This means wastewater flow is tracking consistently with potable water production.
- Pumps and motor starters for the visitor center lift station were replaced in January and Staff are working with vendors to replace the lift station valves, piping, and controls.
- Fire protection system upgrades at the wastewater treatment plant are in progress.
- We are still waiting for the State to release a final permit modification No. 1. This amendment is part of a very complex picture relating to the standards implemented by the State in our current discharge permit as well as future regulatory limits we will be required to comply with. We have been working with our consulting engineers to study how to best comply with the future regulations, and now are beginning preliminary design for the required improvements at the plant. The aeration study for these improvements is being finalized and have identified potential energy savings to be realized along with process improvements.

OPEN SPACE & TRAILS

(Brian Lieberman, Open Space & Trails Manager)

- Brush Creek Restoration Project - Staff have started to develop an RFP to design and construct a restoration project along the Brush Creek corridor in open space. The RFP will detail that competitive proposals will need to address resource issues identified in the 2023 Open Space Management Plan. The natural resource issues/opportunities map is included below for reference. Staff aims to release the RFP in March.



- Spring Open Space and Trails Projects – Staff presented spring open space and trails projects to OSRAC on 3/5/24. A list of current projects can be found in the OSRAC packet at this link: <https://eagleco.portal.civicclerk.com/event/2096/files/agenda/3711>. This list will continue to evolve over the spring. The list is also in addition to regular operational tasks such as noxious weed control and pest management.
- Respect the Wild – Staff continued to coordinate with the Vail Valley Mountain Trails Alliance to pinpoint efforts to address winter recreation and wildlife. Staff have continued to put up new signs focused on winter recreation education, the leash law, and seasonal trail closures information.
- Open Space and Trails Master Plan Phase 1 Projects Implementation - Staff continue to coordinate with Vail Valley Mountain Trails Alliance (VVMTA) and the Hardscrabble Trails Coalition (HTC) to plan for implementation

of high-priority trail, reroutes, and trail decommissioning projects in federal lands surrounding the Town of Eagle. Projects are still under review by the Bureau of Land Management, with an expected review completion date by the end of March 2024. Implementation of projects is expected to begin this summer.

- Eagle Bike Park - Valley Mountain Trails Alliance (VVMTA) will resume work on the Eagle Bike Park as soon as conditions allow. VVMTA aims to have the park open by Memorial Day weekend. In addition to completion of the features, VVMTA will work on signage and revegetation tasks this summer.
- Open Space Signage Projects – From a competitive bidding process, staff selected a fabricator to construct and install interpretive signage in open space. Fabrication is scheduled to occur in April – May with installation scheduled for June – July. Some new draft panels have been included below. NOTE: the Spanish on these signs was translated using Google Translate to get an idea for space on the sign. The final language will be translated by a local translator.



Haymaker Trail

You are entering vital habitat for deer and elk so please stay on the trail and respect all wildlife. This trail crosses severe winter range, meaning that it is space for elk and deer to go when there is extreme winter weather. This gives them the best hope of finding food, conserving energy, and giving birth in the spring.

Respect wildlife by giving them space and leashing your dog!

Está ingresando a un hábitat vital para los ciervos y los alces, así que permanezca en el sendero y respete toda la vida silvestre. Este sendero cruza una zona invernal severa, lo que significa que hay espacio para que los alces y ciervos vayan cuando hay un clima invernal extremo. Esto les da la mejor esperanza de encontrar alimento, conservar energía y dar a luz en primavera.

¡Respete la vida silvestre dándoles espacio y atando a tu perro!



After gestating for 8.5 months, cow elk give birth to their young in the spring. Newborn calves weigh about 30 pounds, but quickly put on weight. Cows need a steady supply of food to produce milk to feed their young. They return to the same areas year after year in search of food and safety for their calves.

Protective Parents

When humans are too close to an elk it can cause a great deal of stress to the animal and reduce the overall survival of calves. Respect seasonal trail closures, they are an important tool for wildlife conservation.

Give us space!



Durante la primavera, después de una gestación de unos 250 días, las vacas dan a luz a sus crías. Los terneros recién nacidos pesan alrededor de 30 libras pero rápidamente aumentan de peso.

Para facilitar el rápido crecimiento de los terneros, las vacas necesitan un suministro constante de alimentos para producir leche para alimentar a sus crías. Las manadas de alces regresan a las mismas zonas año tras año en busca de alimento y para evitar otros animales.

Cuando un alce percibe una amenaza, puede causar mucho

The habitat created by a stream is larger than the waterway itself.

The land surrounding a stream, the riparian zone, is vital for wildlife survival, despite being only 3% of Colorado's land area. Eagle's lower elevation riparian areas have warmer temperatures and easier access to food and water which makes them particularly important for sustaining wildlife through the winter.

Stay on Trails!

Human activities can increase erosion and deposits sediment into creeks. Keeping the native vegetation alive around the riparian areas helps stabilize soils and keeps the whole ecosystem healthier.

The Center of All Mountain Life



El hábitat creado por un arroyo es más grande que el propio curso de agua.

La tierra que rodea un arroyo, la zona ribereña, es vital para la supervivencia de la vida silvestre, a pesar de representar solo el 3% de la superficie terrestre de Colorado. Las áreas ribereñas de menor elevación de Eagle tienen temperaturas más cálidas y un acceso más fácil a alimentos y agua, lo que las hace particularmente importantes para el sustento de la vida silvestre durante el invierno.

¡Manténgase en los senderos!

Las actividades humanas pueden aumentar la erosión y depositar

ENGINEERING

(Ryan Johnson, Town Engineer, and Martha Miller, Project Manager)

February 2024

General Updates (RJ):

- The Public Works Inspector position has been adjusted and is currently posted on the Town of Eagle job board.
- Modifications to the Public Works Facility office space will be necessary to accommodate additional positions. Initial office modification plans are being developed.
- Preliminary work has begun on replacing the Public Works Manual with updated Engineering Standards and Construction Specifications. Similarly, right of way and grading permit processes are under review and will undergo modifications

Right of Way Permitting Summary (RJ):

Active ROW Permits: 0 (Seasonal work restrictions are currently active from Nov. 15 to April 15)

Resurfacing and Pavement Management Program Summary

- Pavement Management Study – Staff working with IMS (Infrastructure Management Services) on final report.
- 2024 Resurfacing Project – Using the results from the Pavement Management Study, the roads with the lowest Pavement Condition Index (PCI) are Chambers (high traffic volumes), Sawatch, and Marmot. The 2024 Resurfacing project will include Marmot Lane and the western portion of Chambers Avenue. Staff will prepare the bid package in March and advertise in April.

Capital Improvement Projects

- Howard & 4th Street – Staff has completed 90% design and the review meeting is scheduled for March 7th and Open House for March 14th. Staff anticipates advertising the project in mid-April.
- Sylvan Lake Road – Staff has completed a 30% (FIR) design, submitted to CDOT, and FIR meeting is scheduled for Feb. 21st. Staff will schedule an Open House in March/April. The design includes a new sidewalk between MacDonald and Capitol Streets and intersection improvements at Capitol Street and Eagle Ranch Road using the \$1M MMOF grant.
- Grand Avenue Corridor – One-on-one property owner access meetings were conducted on February 13th and 14th. Staff are working with roundabout experts to balance safe roadway design standards, access points, railroad encroachment, and other constraints. Technical design meetings to review traffic, drainage, and utilities are ongoing.
- Safe Streets of All (SS4A) Action Plan – Staff released a Request for Proposals (RFP) on February 5th with a close date of March 5th. This study is funded with the \$276,000 SS4A grant (80/20 match) the Town received.
 - Executive Agreement with FHWA is completed.
 - 7 proposals were received for the RFP on 3/6/2024 the selection committee will begin review and selection recommendations.
- RAISE Grant – Staff assisted the grant writing consultant KLJ with the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant for the Grand Avenue corridor project which was submitted on Feb. 28th. KLJ completed the application preparation and Benefit Cost Analysis (BCA). Staff provided the technical information to KLJ and support letters from state and local agencies such as Senators Bennett and Hickenlooper, Representative Neguse, Eagle County, EVTA, DDA, EVC, etc.

TOWN CLERK

February 2024

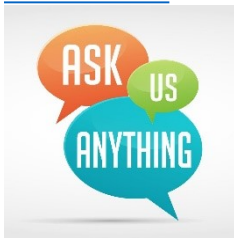
EAGLE NEWS

Stay Updated on the Latest Town Updates

Water & Sewer Rate Changes

- 2024 Business License Renewals
- Utility Work February 21-23 between 4th & 6th Street
- Community Sustainability Funding Available
- Broadband
- Contact Information Update
- Dogs Required to be Leashed on Eagle Ranch Golf Course
- Trash, Recycling, & Composting Pickup Schedule

[Ask the Town](#)



- Fence Contractor Inquiry
- Inquiry for Eagle Wisconsin Boat Marina 😊
- Pavilion Inquiry
- Utility Inquiry

Records Requests

2018	2019	2020	2021	2022	2023	2024
16	13	16	30	41	29	12

**Various Town Departments respond to Records Requests*

Licensing

- 2024 Business License Renewals – 211 licenses
- Liquor License Authority & Administrative Approvals
 - Gourmet China Renewal
 - Roam Enterprise LLC License Surrender
 - Kasia Karska Renewal
 - Mauka Poke Bar Transfer Inquiry
 - Your Father's Office Modification of Premises Hearing (taking over Roam Enterprises space) is set for April 2, 2024, @ 11:00 a.m. in front of the Administrative Hearing Officer
- Marijuana – Tumbleweed Renewal
- Tobacco – 7 of 7 renewed

Training/Meetings

- Met with Jamie Wilson new Communication & Marketing Manager
- Court staff Ride-A-Long with Eagle Police Department, Sgt. Rich and Sgt. Westering
- Liquor Licensing & Town Park Events meeting with Chief Buhlman and Molly Furtado
- Second Street Tavern Modification meeting with Community Development staff
- Special Event Liquor in Town Park meeting with Michelle Morgan from Eagle Chamber
- Municipal Court Personal Recognizance Bond process meeting with Chief Buhlman, Judge Johnson, court and PD staff
- Lunch and Learn Sustainability meeting

Sales Tax – 2024 Sales Tax

2024					
Month	Filing Period	Revenue Period	O/U	Online Sales	Online Retailers
Jan	\$ 557,077.90	\$ 821,112.05	4%	\$ 117,976.28	2236
Feb		\$ 810,272.13	21%	\$ 128,837.94	1963
Mar					
1 Q	\$ 557,077.90	\$ 1,631,384.18			

2023					
Month	Filing Period	Revenue Period	O/U	Online Sales	Online Retailers
Jan	\$ 724,417.43	\$ 793,838.43	5%	\$ 97,085.03	2016
Feb	\$ 683,763.06	\$ 675,138.60	5%	\$ 91,521.57	1792
Mar	\$ 749,754.06	\$ 698,140.28	5%	\$ 97,830.73	1892
1 Q	\$ 2,157,934.55	\$ 2,167,117.31	5%	\$ 286,437.33	



To: Mayor and Town Council

From: Carrie Buhlman, Chief of Police- Interim

Date: March 12th, 2024

Agenda Item: E-Bike Ordinance 02-2024

REQUEST:

Review draft language and approve ordinance 02-2024.

BACKGROUND:

Colorado currently has little to no regulation for e-bike use. In 2023, e-bikes became commonplace in and around the Town of Eagle. With the lack of state-level regulation, frequent safety concerns arose. After receiving community feedback regarding safety concerns, Town Council request staff research and present options for e-bike regulations. The proposed regulations serve as the framework for education and enforcement.

ANALYSIS:

Due to the proliferation of e-bike use in and around the Town of Eagle, the need for regulation, education, and enforcement of e-bike use is essential to ensure the continued safety of our community.

This ordinance will provide a clearly defined regulation surrounding e-bike usage.

COMMUNITY INPUT:

Staff solicited community feedback by conducting a community survey and hosting a public open house meeting at Town Hall. Below are the results from both.

Community Survey

- The survey was open from Oct. 16th to Nov. 5th, 2023.
 - 167 Respondents
 - The summary of the survey data can be viewed here [\(link\)](#).
- **Key themes from the survey and community input include:**
 - Approximately 75% of respondents favored dismount zones in the Downtown Broadway and Downtown Capitol Street areas. Additionally, 61% supported dismounts on "sidewalks only," while 23% supported including both "streets and sidewalks" in the dismount zone.
 - Around 73% of respondents supported the implementation of speed limits on bike paths, sidewalks, and trails.
 - Respondents were divided on whether operators should be required to wear a helmet regardless of age, with 40.7% voting no and 57.5% voting yes.

Public Meeting/ Open House

- The meeting was held on Saturday, November 11, 2023.
 - Approximately 10 community members attended.
 - Questions and concerns mainly focused on juveniles on e-bikes and the education needed for them.

BUDGET / STAFF IMPACT:

Education surrounding this new ordinance will be crucial. With that in mind, staff will host an “EV Ride and Drive” event on Sunday, May 19th, with a focus on educating attendees about E-Bike regulations. Additionally, staff will create an educational flyer to distribute at events and other similar locations within the community. We will also leverage our social media platforms to disseminate the message. The School Resource Officer hopes to collaborate with the school on presentations for students regarding the new regulations as well.

Staff recommends the installation of vertical signage and pavement markings along applicable bike paths, sidewalks, trails, dismount zones, etc. owned by the Town of Eagle. While there is no definitive standard for the required location or spacing of speed limit signs, Public Works staff believe that it would be appropriate to install E-Bike speed limits signs at each location where riders enter a recreation path from the adjacent street system. A preliminary count of the number of these locations is 110, and adding an allowance for some intermediary signs installed along uninterrupted stretches of rec path, we estimate that a total 130 sign installations should be anticipated. A significant amount of staff time is required to mark the location of each proposed sign, request underground utility locates, and then assemble and install the signs. We estimate that the rec path speed limit signs will require 250 staff hours to complete and a materials cost of approximately \$25,000.

For the dismount zones, Public Works staff believe that it would be appropriate to install signs and pavement markings at each location where a rider would enter/exit the dismount zone. This is estimated to be 16 installations for the Broadway zone, and 10 installations for the Capitol zone. Each installation would consist of a sign facing out of the zone that notifies of entering the zone, an opposing sign that notifies of exiting the zone, and a pavement marking indicating the start of the zone. Both signs would be installed on a single post. Due to the more urbanized environment in these areas it is likely that a hole drilled into the sidewalk will be necessary to install at least some of these installations, and this is taken into account in our assessment of the staff hours required for installation. We estimate that the dismount zones will require 200 staff hours to complete and approximately \$8000 in materials.

The combined 450 staff hours required would be significant for Public Works and would demand that we defer or eliminate other planned work in order to accomplish this project. It would be possible, and worthy of strong consideration, to hire a contractor to do the sign installation. In this case Public Works staff would still need to devote several weeks to the project planning, and we would expect the total cost to be approximately \$64,000 for materials and installation (both rec paths and dismount zones).

STRATEGIC PLAN ALIGNMENT / STANDARDS ACHIEVED:

Community Safety

RECOMMENDED ACTION OR PROPOSED MOTION:

A motion to approve Ordinance 02-2024

ATTACHMENTS:

Ordinance 02-2024

TOWN OF EAGLE, COLORADO
ORDINANCE NO. 02
(Series of 2024)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO,
AMENDING TITLE 11 OF THE EAGLE MUNICIPAL CODE BY THE ADDITION OF A NEW
CHAPTER 11.13, TO REGULATE ELECTRIC ASSISTED BICYCLES

WHEREAS, the Town Council wishes to amend the Eagle Municipal Code by adding a new Chapter 11.13, establishing regulations for the operation of electric assisted bicycles.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO AS FOLLOWS:

Section 1. The Eagle Municipal Code is hereby amended by the addition of a new Chapter 11.13, to read as follows:

CHAPTER 11.13. – ELECTRIC ASSISTED BICYCLES.

Section 11.13.010. – Definitions.

For purposes of this Chapter, the following terms shall have the following meanings:

Electric assisted bicycle means a bicycle with fully operable pedals and an electric motor that conforms to one of the classes as follows:

1. *Class 1 Electric Assisted Bicycle* means an electrical assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and has a maximum speed of twenty (20) miles per hour.

2. *Class 2 Electric Assisted Bicycle* means an electrical assisted bicycle equipped with a motor that can provide assistance regardless of whether the rider is pedaling and provides less than seven hundred and fifty (750) watts of power.

3. *Class 3 Electric Assisted Bicycle* means an electrical assisted bicycle equipped with a motor capable of providing more than seven hundred and fifty (750) watts of power or capable of speeds in excess of twenty (20) miles per hour.

Operator means an individual who is in actual physical control of an electric assisted bicycle.

Section 11.13.020. – Safety and speed.

A. The speed limit for all electric assisted bicycles is fifteen (15) miles per hour in all areas of Town when operated on a designated bike path, sidewalk, or non-motorized trail. Any electric assisted bicycle operated on the roadway must abide

by the posted speed limit and be operated in compliance with the Model Traffic Code, as adopted by the Town.

B. Helmets shall be worn for all operators, riders, and passengers of all classes of electric assisted bicycles under the age of eighteen (18).

C. An operator shall come to a complete stop at all intersections and stop at all crosswalks with pedestrians present, before proceeding.

D. An operator shall not use a mobile phone while operating an electric assisted bicycle, unless they are utilizing hands free methods.

E. An operator shall not allow more passengers on an electric assisted bicycle than the electric assisted bicycle is originally designed and built for. This shall not prevent the use of aftermarket products, such as child carriers.

F. All electric assisted bicycles shall be equipped with a permanently affixed headlight and taillight if used between dusk and dawn. Headlights and taillights shall be visible from at least two hundred (200) feet and shall be activated when electric assisted bicycles are operated between thirty (30) minutes before sunset and thirty (30) minutes after sunrise. Handheld lights and rider-worn lights are not acceptable substitutes.

G. Operators shall at all times yield the right-of-way to pedestrians, equestrians, bicycles, wildlife, and all uphill traffic. Pedestrians have the primary right-of-way.

Section 11.13.030. – Locations for operation.

A. Electric assisted bicycles may be used on designated bike paths, sidewalks, and non-motorized trails or operated on roadways in compliance with the Model Traffic Code, as adopted by the Town.

B. Electric assisted bicycles are prohibited on all-natural surface (dirt, gravel, grass) trails, other than Second Gulch Trail.

C. Electric assisted bicycles are prohibited at the BMX bike park.

D. Electric assisted bicycles shall be operated on the right-hand side of all sidewalks, bike paths, and non-motorized paths, except where the sidewalk or path width is less than thirty-six (36) inches wide.

E. An operator shall dismount from their electric assisted bicycle on the sidewalks in the following areas:

1. Downtown Broadway: Broadway Street between Grand Avenue and 5th Street, half a block (to alleyway) in each direction from Broadway Street on cross streets and sidewalks only. The dismount zone does not include the street surface.

2. Downtown Eagle Ranch: Capitol Street between 1000 Capitol Street and Sylvan Lake Road, and two hundred (200) feet each direction along Founders Avenue, from the intersection of Founders Avenue and Capitol Street on sidewalks only. The dismount zone does not include the street surface.

F. Parks, streets, or other public spaces that are hosting special events shall be closed to electrical assisted bicycle usage beginning fifteen (15) minutes prior to the designated special event start time, as designated on the special event permit, and shall remain closed until fifteen (15) minutes after the end time of the special event, as designated on the special event permit, unless such special event is specifically for the use and primary purpose of electric assisted bicycle education, training, or competitions.

G. The Chief of Police or designee may, with or without notice, temporarily close any public space, park, or other public property to the use of electric assisted bicycles when in the interest of public safety, or due to an emergency incident.

Section 11.13.040. – Violation and penalty.

It is unlawful to violate any provision of this Chapter. Violations of this Chapter shall be punished as provided in Chapter 1.12 of this Code.

Section 2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Town Council hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

Section 3. Safety. This Ordinance is deemed necessary for the protection of the public health, safety and welfare.

INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED ON MARCH 12, 2024.

TOWN OF EAGLE, COLORADO

Scott Turnipseed, Mayor

ATTEST:

Jenny Rakow, Town Clerk



To: Mayor and Town Council

From: Nikki Davis, Economic Development and Housing Specialist; Kira Koppel, Sustainability Specialist; and Larry Padree, Town Manager.

Date: March 12, 2024

Agenda Item: Future of Old Town Hall Site

REQUEST: We kindly ask the Council to examine the preliminary concept draft for the redevelopment of the Old Town Hall and offer staff constructive feedback and guidance for the subsequent phases of the project.

BACKGROUND: We comprehensively evaluated the Old Town Hall (OTH) structure to assess the required renovations and ensure compliance with building codes. Our analysis revealed a substantial need for funding to implement the proposed improvements. In response, our team has decided to explore the potential for site redevelopment, aligning with the recently enacted ReCode zoning regulations for the downtown area.

The preliminary conceptual plan is attached, providing a brief overview of the potential of the Old Town Hall site. Key features of the draft plan include incorporating four parking spaces within the Main Level Footprint. If there is insufficient ground floor office space, we propose converting one of the upstairs apartments to accommodate additional office space. The two-bedroom apartments, ranging from 1,100 to 1,252 square feet, offer comfortable living spaces.

The exterior design of the proposed plan pays homage to the historical significance of the existing Old Town Hall and the new Town Hall buildings. Additionally, we are open to considering a more modern design approach if deemed appropriate for the redevelopment project. Your review of the attached draft conceptual plan is appreciated, and we look forward to further discussions on this exciting redevelopment opportunity.

Overview of the envisioned architectural concept: Our proposed building is a three-story structure with a thoughtful design to optimize functionality and aesthetic appeal. The first floor is designated for office space, complemented by convenient parking facilities catering to the four apartments situated on the upper levels. The second floor features two spacious 2-bedroom apartments, and this layout is mirrored on the third floor, providing a cohesive and balanced living arrangement.

In addition to addressing structural considerations, our project is committed to the objectives outlined in our NetZero Action Plan. We are devoted to seamlessly incorporating sustainability and community-centric elements into every design and development process facet. Our ongoing sustainability initiatives encompass the integration of designated areas within the design to collect three distinct waste streams (compost, recycling, and trash), the implementation of super-insulated exterior envelopes, the utilization of high-energy efficiency-rated windows and doors, and meticulous planning for the installation of heat pumps. We are committed to implementing the 2021 International Energy Conservation Code to ensure compliance with energy efficiency standards. Upon approval of the building design, our alignment with NetZero principles will extend to providing electric vehicle (EV) charging capabilities for all four parking spaces, establishing all-electric office spaces and housing units, and potentially incorporating rooftop solar hot water and solar photovoltaic (PV) systems along with associated battery storage.

ANALYSIS: Town staff are exploring state funding to leverage the Town's financial capacity for the OTH redevelopment. Staff conducted an exploratory call with Regional Manager Kate McIntire on February 20 to vet the project against new and upcoming grant initiatives. One such opportunity provided through the Colorado Department of Local Affairs (DOLA) Division of Local Government (DLG) is the Main Street LIVE grant ([link](#)). Housed under the Energy/Mineral Impact Assistance Fund (EIAF) Program ([link](#)), Main Street LIVE will fund the planning, design, engineering, and construction of Main Street public infrastructure and facilities as livability investments for vibrant economies. This generous infusion of state dollars helps communities reinvest in their downtown districts to enhance long-term sustainability, develop housing, and attract the workforce to create a more vibrant, livable commercial core.

The highly competitive Main Street LIVE grant opened on March 1 and closes on April 1. Today, this program offers two funding streams with a maximum award of \$2 million: 1) Planning which supports design and engineering and requires a 10 percent match; 2) Infrastructure which supports facilities upgrades or construction and requires a 25 percent match. The most competitive projects applying for Infrastructure funding are able to demonstrate shovel-readiness within six months of receiving the award. Though Main Street LIVE is housed under the annually recurring EIAF Program, Main Street LIVE faces the potential of being depleted in this current award cycle. In 2024 EIAF is scheduled to accept applications April 1, August 1, and December 1.

Town staff also met with Andrew Atchley, Housing Development Specialist with the Division of Housing (DOH), to evaluate supplementary grant and loan programs that can enhance the project's capital stack. The sum of eligible funds available through DOH has yet to be confirmed.

Notably, funding assistance applications for Old Town Hall recognize the redevelopment as two projects – commercial improvement and workforce housing. Presently, staff have only identified funding resources to support the housing element. However, staff remain steadfast in exploring local and state partnerships that can help this undertaking comprehensively. With Town Council's feedback, guidance and endorsement, staff would pursue local and state initiatives to invest in the design, engineering, and construction of Old Town Hall. Specifically, staff will first apply for Main Street LIVE by April 1. A successful award outcome will enable staff to initiate the design and engineering phase and affirm existing construction cost estimates. Staff will return to Town Council in June or July seeking official approval to pursue construction funding from prevailing local and state programs. Pending a successful outcome of those award cycles, staff aims to break ground in early 2025.

COMMUNITY INPUT: We have not received any community input to date.

BUDGET / STAFF IMPACT: While we currently have conceptual cost estimates ranging from \$2.85 million to \$3.5 million to refine and substantiate these figures, further advancements will be undertaken to yield a more precise and detailed cost estimate. Included in the total \$2.85 – \$3.5 million estimate, preliminary figures indicate \$200,000 to complete design and engineering.

Through Main Street LIVE, staff would apply for \$180,000 to support OTH design and engineering. This sum would be leveraged by the Town's 10 percent match of \$20,000. Should Main Street LIVE reopen for subsequent funding cycles, staff will reapply for Infrastructure grant dollars. That figure will be confirmed and presented to Town Council at a future meeting. In the absence of Main Street LIVE, staff can pursue construction funding from the broader EIAF Program for up to \$1 million. The latter requires a one-to-one local match. With inflation increases in construction costs, staff considered subsidizing Old Town Hall by potentially selling at least one of the housing units. However, Main Street LIVE obligates the grantee to own all housing units for at least ten years following the award to maintain compliance.

Potential funding sources:

- Old Town Hall 2024 Budget \$250,000
- Housing Fee in-lieu \$750,000
- Main Street Live Planning Fund – Request \$180,000 + \$20,000 (10% local match). Total \$200,000.

- Main Street Live Infrastructure Fund – To Be Determined
- EIAF Program – Up to \$1 million for construction and requires a 1:1 match
- Proposition 123 – To Be Determined
- Colorado Department of Public Health & Environment, Brownfields Program – To Be Determined
- Colorado Department of Transportation, Revitalizing Main Streets – To Be Determined
- Inflation Reduction Act Elective Pay Provision – Direct payment of up to 30% of the total project cost for solar PV, battery storage, and EV charging stations
- Holy Cross Energy Rebate – Up to \$30,000

STRATEGIC PLAN ALIGNMENT / STANDARDS ACHIEVED:

Our Major Objectives include Stimulating Economic Vitality and Development, Improving Community Responsive Services, Matching Infrastructure to Quality of Life, and Strengthen Town Organization and Culture.

RECOMMENDED ACTION OR PROPOSED MOTION:

I move to **APPROVE** and direct staff to advance with the draft concept for the Old Town Hall redevelopment plan, finalize the design, conduct cost estimates, and actively pursue supplementary funding from local and state grant sources.

ATTACHMENTS:

- [LINK](#): Old Town Hall Redesign Concept
- Resolution 19, Series 2024

TOWN OF EAGLE, COLORADO
RESOLUTION NO. 19
(Series of 2024)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO
SUPPORTING A GRANT APPLICATION TO THE COLORADO DEPARTMENT OF LOCAL
AFFAIRS MAIN STREET LIVE PROGRAM FOR OLD TOWN HALL PLANNING

WHEREAS, a series of major objectives from the 2020 Town Council Strategic Plan include stimulating economic vitality and development, improving community responsive services, matching infrastructure to quality of life, and strengthen town organization and culture; and

WHEREAS, the Town Council is committed to buying, or leasing as a secondary option, one (1) unit per year for the Town of Eagle government organization; and

WHEREAS Town staff recognize the redevelopment potential at Old Town Hall to provide housing and expanded office space for Town of Eagle employees and administrative operations; and

WHEREAS, the preliminary scope of work for design and engineering is estimated at \$200,000; and

WHEREAS, the Town will apply for \$180,000 through the Colorado Department of Local Affairs ("DOLA") Main Street LIVE Program to help fund the design and engineering phase of rebuilding Old Town Hall; and

WHEREAS, the Town Council will appropriate a 10 percent local match equal to \$20,000 from the General Government budget to satisfy the grant application requirements; and

WHEREAS, the application for Main Street LIVE is due April 1, 2024.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO AS FOLLOWS:

Section 1. The Town Council hereby supports the Town's application for funds from DOLA's Main Street LIVE Program.

INTRODUCED, READ, PASSED AND ADOPTED ON March 12, 2024.

TOWN OF EAGLE, COLORADO

Scott Turnipseed, Mayor

ATTEST:

Jenny Rakow, Town Clerk