



# MANITOU SPRINGS CITY COUNCIL REGULAR MEETING AGENDA

City Council meetings are held in hybrid form by Zoom  
(remote) or in-person at Memorial Hall.

Memorial Hall

606 Manitou Avenue

Manitou Springs, CO 80829

Remote: [www.manitouspringsgov.com](http://www.manitouspringsgov.com); click on meeting  
link under "Government; City Council" page

Position	Name	Term Expires
Mayor	Natalie Johnson	January 4, 2028
At-Large	Mayor Pro Tem Judith Chandler	January 4, 2028
At-Large	John Shada	January 4, 2028
At-Large	Julie Wolfe	January 4, 2028
Ward 1	Nate Nassif	January 8, 2030
Ward 2	Carey Storm	January 8, 2030
Ward 3	Gloria Latimer	January 8, 2030

**June 16, 2026**

**6:00 PM**

**THE CITY COUNCIL MAY TAKE ACTION ON ANY OF THE FOLLOWING AGENDA ITEMS AS PRESENTED OR MODIFIED PRIOR TO OR DURING THE MEETING, AND ITEMS NECESSARY TO EFFECTUATE THE AGENDA ITEMS**

**A. CALL TO ORDER**

**B. PLEDGE OF ALLEGIANCE**

**C. ROLL CALL**

**D. APPROVAL OF AGENDA**

**E. PUBLIC COMMENT ON NON-AGENDA ITEMS**

**F. CONSENT CALENDAR**

1. Presentation of Warrants
2. June 2, 2026 City Council Meeting Minutes
3. Authorization to Enter into an Agreement with Myers & Sons Construction, LLC for Construction Manager/General Contractor Services for Lovers Lane Creek Retaining Wall Replacement

**G. PRESENTATION**

1. Proclamation No. 0826, A Proclamation Recognizing June 19, 2026, as Juneteenth

2. Proclamation No. 0926, A Proclamation to Recognize June as Pride Month
3. Proclamation No. 0726, A Proclamation Recognizing June 2026 as National Pollinator Month and June 22-28, 2026, as Pollinator Week
4. Visit Manitou Springs Q2 2026 Update
5. Community Budget Engagements Overview
6. Monthly Financial Report

#### **H. BUSINESS**

1. Consider Appointing Sean Warner to the City Planning Commission

#### **I. RECEIVE OR ACT ON COUNCIL CORRESPONDENCE**

#### **J. CITY ADMINISTRATOR REPORT**

#### **K. EXECUTIVE SESSION**

1. An Executive Session to hold a conference with the City attorney for legal advice pursuant to Section 5.1(c) of the City of Manitou Springs Home Rule Charter, concerning *Manitou and Pikes Peak Railway Company v. City of Manitou Springs, Colorado*, El Paso County District Court Case No. 2025CV30766

#### **ADJOURN**

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The City of Manitou Springs does not discriminate on the basis of disability in the admission to, access to, or operations of programs, services or activities. Reasonable accommodation will be provided to ensure equal access to all. Individuals who would like to request auxiliary aids or services should contact the ADA Coordinator at (719) 685-5481 or [jfryer@manitouspringsco.gov](mailto:jfryer@manitouspringsco.gov). You may also contact the City Clerk's Office at [cityclerk@manitouspringsco.gov](mailto:cityclerk@manitouspringsco.gov) or (719) 685-2554. Please provide a minimum of 3-5 days advance notice.



## Memorandum

Title: Presentation of Warrants  
From: Nate Moore, Sr. Budget Analyst  
To: Mayor and City Council  
CC: City Administrator Denise Howell  
Allocated Time: 5 Minutes

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June 16, 2026

### **Purpose:**

To present warrants, written from April 1, 2026, through April 30, 2026, to City Council.

### **Background:**

City Code 4.2. Powers and duties of Council

...the Council shall have the responsibility and power to:

(d) Prepare and administer an annual budget, and post monthly in City Hall and make available to the public the line-by-line expenditures authorized by the council.

### **Fiscal Impact:**

Total checks written: 162

Total amount: \$1,522,376.84

### **Workload Impact:**

Minimal

### **Recommended Action:**

Acknowledge presentation of the warrants by approval of the Consent Calendar.

Report Criteria:

Report type: Summary  
 Check.Type = {<->} "Adjustment"

GL Period	Check Issue Date	Check Number	Vendor Number	Payee	Check GL Account	Amount	
05/26	05/04/2026	22074	615	CARDMEMBER SERVICE	10-202-100	745.96	M
05/26	05/07/2026	22075	615	CARDMEMBER SERVICE	10-202-100	3,888.93	M
05/26	05/08/2026	22076	615	CARDMEMBER SERVICE	52-202-100	2,317.33	M
05/26	05/12/2026	22077	20220557	STAMPLI CREDIT CARD	10-202-100	287.64	M
05/26	05/15/2026	22078	615	CARDMEMBER SERVICE	10-202-100	6,669.73	M
05/26	05/18/2026	22079	615	CARDMEMBER SERVICE	52-202-100	1,274.17	M
05/26	05/20/2026	22080	615	CARDMEMBER SERVICE	55-202-100	3,833.93	M
05/26	05/11/2026	253567	20220401	NATIONAL CAR CHARGING LLC	55-202-100	2,441.50-	V
05/26	05/04/2026	253624	20221207	ARLINGHAUS, PAUL	23-202-100	100.00	
05/26	05/04/2026	253625	145724	AMAZON CAPITAL SERVICES	10-202-100	324.10	
05/26	05/04/2026	253626	1516	CASELLE INC	10-202-100	9,600.00	
05/26	05/04/2026	253627	160177	CREATIVE ALLIANCE MANITOU SPRINGS	10-202-100	311.30	
05/26	05/04/2026	253628	20221239	GARRETT TREE SERVICE INCORPORATED	10-202-100	500.00	
05/26	05/04/2026	253629	436	HOME DEPOT CREDIT SERVICES	10-202-100	1,071.14	
05/26	05/04/2026	253630	774	HOWELL, DENISE	10-202-100	332.05	
05/26	05/04/2026	253631	15009	JR ENGINEERING LLC	39-202-100	4,697.00	
05/26	05/04/2026	253632	145567	MAUL, JOSHUA M	10-202-100	60.00	
05/26	05/04/2026	253633	145606	MILE HIGH ACE HARDWARE	10-202-100	167.39	
05/26	05/04/2026	253634	145602	SITEONE LANDSCAPE SUPPLY	10-202-100	311.11	
05/26	05/04/2026	253635	10065	WASTE CONNECTIONS	10-202-100	4,417.64	
05/26	05/04/2026	253636	10064	WASTE CONNECTIONS	10-202-100	1,233.09	
05/26	05/06/2026	253637	20221240	APRES SERVICES LLC	52-202-100	1,240.00	
05/26	05/06/2026	253638	1516	CASELLE INC	10-202-100	2,531.00	
05/26	05/06/2026	253639	170	CIRSA	10-202-100	4,829.66	
05/26	05/06/2026	253640	682	FP MAILING SOLUTIONS	10-202-100	104.85	
05/26	05/06/2026	253641	20220763	FRANSEN PITTMAN GENERAL CONTRACTORS	26-202-100	360,716.76	
05/26	05/06/2026	253642	436	HOME DEPOT CREDIT SERVICES	10-202-100	56.59	
05/26	05/06/2026	253643	144777	L.N. CURTIS & SONS	39-202-100	4,516.38	
05/26	05/06/2026	253644	160255	LIFEMED SAFETY, INC.	10-202-100	1,943.00	
05/26	05/06/2026	253645	1009	MARCUS ELECTRIC LLC	52-202-100	200.00	
05/26	05/06/2026	253646	20220219	MATRIX DESIGN GROUP, INC	55-202-100	1,765.00	
05/26	05/06/2026	253647	2021089	NATIONSEARCH.COM LLC	10-202-100	123.70	
05/26	05/06/2026	253648	20221086	NOMATIX	26-202-100	3,750.00	
05/26	05/06/2026	253649	187	O'REILLY AUTO PARTS / FIRST CALL	10-202-100	22.47	
05/26	05/06/2026	253650	160263	TALL TIMBERS TREE & SHRUB SERVICE INC	10-202-100	500.00	
05/26	05/06/2026	253651	20221035	TALOS TECHNOLOGIES LTD	52-202-100	712.50	
05/26	05/06/2026	253652	144398	UNIVAR SOLUTIONS	52-202-100	1,620.91	
05/26	05/06/2026	253653	202195	WATTERS H2O SERVICES	52-202-100	6,638.75	
05/26	05/07/2026	253654	37	AFLAC	10-202-100	34.40	
05/26	05/07/2026	253655	145724	AMAZON CAPITAL SERVICES	10-202-100	306.77	
05/26	05/07/2026	253656	1410	BOBCAT OF THE ROCKIES	10-202-100	13.98	
05/26	05/07/2026	253657	144799	GARDEN OF THE GODS ACE HARDWARE	10-202-100	25.98	
05/26	05/07/2026	253658	432	GRAINGER	10-202-100	47.60	
05/26	05/07/2026	253659	540	GRONINGER CONCRETE	10-202-100	2,120.00	
05/26	05/07/2026	253660	1258	HARDLINE EQUIPMENT	55-202-100	1,328.68	
05/26	05/07/2026	253661	436	HOME DEPOT CREDIT SERVICES	54-202-100	67.92	
05/26	05/07/2026	253662	20220651	MBI - MEDICINE FOR BUSINESS AND INDUSTRY	10-202-100	200.00	
05/26	05/07/2026	253663	187	O'REILLY AUTO PARTS / FIRST CALL	10-202-100	115.68	
05/26	05/07/2026	253664	145602	SITEONE LANDSCAPE SUPPLY	10-202-100	13.79	
05/26	05/07/2026	253665	20220387	STUTZMAN, KARA	10-202-100	200.00	
05/26	05/07/2026	253666	160197	VERMEER SOUTH	10-202-100	81.61	
05/26	05/07/2026	253667	1027	WESTERN PAPER DISTRIBUTORS, INC.	55-202-100	90.00	
05/26	05/08/2026	253668	145724	AMAZON CAPITAL SERVICES	10-202-100	118.99	

M = Manual Check, V = Void Check

GL Period	Check Issue Date	Check Number	Vendor Number	Payee	Check GL Account	Amount
05/26	05/08/2026	253669	848	CENTURYLINK	52-202-100	98.83
05/26	05/08/2026	253670	20221004	DETECTACHEM, INC.	10-202-100	94.82
05/26	05/08/2026	253671	20220883	DIVISION OF CHILD SUPPORT	10-202-100	676.00
05/26	05/08/2026	253672	160344	FLAIR DATA SYSTEMS	10-202-100	3,579.00
05/26	05/08/2026	253673	924	FORESTRY SUPPLIERS, INC.	23-202-100	662.27
05/26	05/08/2026	253674	436	HOME DEPOT CREDIT SERVICES	23-202-100	680.36
05/26	05/08/2026	253675	145606	MILE HIGH ACE HARDWARE	55-202-100	51.09
05/26	05/08/2026	253676	415	OLSON PLUMBING & HEATING	52-202-100	340.91
05/26	05/08/2026	253677	160553	POETRY HEALS	29-202-100	2,450.00
05/26	05/08/2026	253678	18922	PREFERRED DOCUMENT SOLUTIONS	10-202-100	57.49
05/26	05/12/2026	253679	145724	AMAZON CAPITAL SERVICES	10-202-100	393.45
05/26	05/12/2026	253680	726	BURLAP BAG	10-202-100	171.95
05/26	05/12/2026	253681	170	CIRSA	10-202-100	13,150.56
05/26	05/12/2026	253682	20221223	COMPASS SURVEYING AND MAPPING, LLC	23-202-100	900.00
05/26	05/12/2026	253683	20221107	CONARD, FURMAN WILLIAM	10-202-100	294.00
05/26	05/12/2026	253684	150063	E-470 PUBLIC HIGHWAY AUTHORITY	10-202-100	17.55
05/26	05/12/2026	253685	796	HOOK-FAST SPECIALTIES INC.	10-202-100	686.96
05/26	05/12/2026	253686	20200300	MORENO, MARCUS	10-202-100	1,270.00
05/26	05/12/2026	253687	20220774	ORGANIC GARDENING SERVICES LLC	10-202-100	1,980.00
05/26	05/12/2026	253688	529	ROCKY MOUNTAIN RESERVE	10-202-100	238.03
05/26	05/12/2026	253689	20200287	SHELDON'S AUTO REPAIR	10-202-100	521.74
05/26	05/12/2026	253690	231	VERIZON WIRELESS	10-202-100	4,071.32
05/26	05/13/2026	253691	145724	AMAZON CAPITAL SERVICES	10-202-100	431.62
05/26	05/13/2026	253692	358	BOUND TREE MEDICAL, LLC.	10-202-100	1,701.54
05/26	05/13/2026	253693	2021025	CHAVEZ CONSULTING INC., LLC	10-202-100	7,131.25
05/26	05/13/2026	253694	642	CORE & MAIN LP	10-202-100	392.71
05/26	05/13/2026	253695	830	CRAIG FIRE & SAFETY, INC	10-202-100	3,500.99
05/26	05/13/2026	253696	20200299	GRANITE ENGINEERING GROUP INC	39-202-100	5,345.00
05/26	05/13/2026	253697	20221238	HUNTCO SUPPLY, LLC	39-202-100	2,792.00
05/26	05/13/2026	253698	144777	L.N. CURTIS & SONS	39-202-100	236.00
05/26	05/13/2026	253699	202158	MACDOUGALL & WOLDRIDGE PC	10-202-100	1,806.00
05/26	05/13/2026	253700	20220651	MBI - MEDICINE FOR BUSINESS AND INDUSTRY	10-202-100	226.00
05/26	05/13/2026	253701	20220401	NATIONAL CAR CHARGING LLC	55-202-100	.00 V
05/26	05/13/2026	253702	20200278	RAIN BIRD INTERNATIONAL INC	10-202-100	175.00
05/26	05/13/2026	253703	855	ROCKY MOUNTAIN AIR SOLUTIONS	52-202-100	1,813.46
05/26	05/13/2026	253704	20200170	UNITED SITE SERVICES	55-202-100	430.00
05/26	05/13/2026	253705	202195	WATTERS H2O SERVICES	52-202-100	700.00
05/26	05/15/2026	253706	20221186	633 CONSTRUCTION LLC	52-202-100	5,525.00
05/26	05/15/2026	253707	144506	ADVANCE AUTO PARTS	10-202-100	161.71
05/26	05/15/2026	253708	145724	AMAZON CAPITAL SERVICES	10-202-100	550.83
05/26	05/15/2026	253709	1045	AMERICAN PUBLIC WORKS ASSOCIATION	10-202-100	421.00
05/26	05/15/2026	253710	177	COLORADO SPRINGS UTILITIES	53-202-100	46,756.08
05/26	05/15/2026	253711	658	EL PASO COUNTY PUBLIC HEALTH LABORATORY	10-202-100	552.00
05/26	05/15/2026	253712	436	HOME DEPOT CREDIT SERVICES	10-202-100	45.98
05/26	05/15/2026	253713	20220780	JOHN DEERE FINANCIAL	52-202-100	4.99
05/26	05/15/2026	253714	160016	KIMLEY-HORN AND ASSOCIATES INC	23-202-100	2,118.08
05/26	05/15/2026	253715	1009	MARCUS ELECTRIC LLC	10-202-100	557.00
05/26	05/15/2026	253716	142003	MASTER BLASTER, INC.	10-202-100	1,160.00
05/26	05/15/2026	253717	20221207	STARSHIP, ASTRID A	10-202-100	10.01
05/26	05/15/2026	253718	20200170	UNITED SITE SERVICES	23-202-100	279.00
05/26	05/15/2026	253719	20220318	WHITE CAP, LP	53-202-100	283.17
05/26	05/15/2026	253720	551	XEROX FINANCIAL SVCS/MARLIN LEASING CORP	10-202-100	3,762.99
05/26	05/18/2026	253721	2021046	COLORADO MUNICIPAL CLERKS ASSOC	10-202-100	800.00
05/26	05/18/2026	253722	132	FLYING PIG FARM LLC	29-202-100	7,050.00
05/26	05/18/2026	253723	145606	MILE HIGH ACE HARDWARE	55-202-100	38.77
05/26	05/18/2026	253724	20220401	NATIONAL CAR CHARGING LLC	55-202-100	1,263.50
05/26	05/18/2026	253725	20220926	PANCHAL, PRATIK	10-202-100	60.00

M = Manual Check, V = Void Check

GL Period	Check Issue Date	Check Number	Vendor Number	Payee	Check GL Account	Amount
05/26	05/18/2026	253726	148850	ROCKY MOUNTAIN FIELD INSTITUTE	10-202-100	40,000.00
05/26	05/18/2026	253727	17001	STAPLES BUSINESS ADVANTAGE	10-202-100	77.40
05/26	05/18/2026	253728	20200170	UNITED SITE SERVICES	52-202-100	387.00
05/26	05/20/2026	253729	145724	AMAZON CAPITAL SERVICES	55-202-100	207.90
05/26	05/20/2026	253730	690	CENTURYLINK	52-202-100	2,576.63
05/26	05/20/2026	253731	235	CLEAN AIR LAWN CARE	28-202-100	1,425.00
05/26	05/20/2026	253732	177	COLORADO SPRINGS UTILITIES	55-202-100	17,238.28
05/26	05/20/2026	253733	148807	HOFFMANN, PARKER, WILSON & CARBERRY	55-202-100	22,375.13
05/26	05/20/2026	253734	144777	L.N. CURTIS & SONS	39-202-100	1,641.18
05/26	05/20/2026	253735	20221058	LINDE GAS & EQUIPMENT INC.	10-202-100	292.41
05/26	05/20/2026	253736	1118	MELCON COMMUNICATIONS LLP	10-202-100	3,050.00
05/26	05/20/2026	253737	254	MINERAL SPRINGS FOUNDATION	10-202-100	2,437.00
05/26	05/20/2026	253738	269	THE GAZETTE	10-202-100	21.65
05/26	05/20/2026	253739	20200170	UNITED SITE SERVICES	10-202-100	1,641.00
05/26	05/20/2026	253740	1027	WESTERN PAPER DISTRIBUTORS, INC.	10-202-100	664.37
05/26	05/21/2026	253741	148821	UCHEALTH MEDICAL GROUP	10-202-100	875.00
05/26	05/21/2026	253742	20221207	WOOLCOCK, JAIME	10-202-100	630.00
05/26	05/29/2026	253743	20220874	ADAM W VERNON	55-202-100	2,496.00
05/26	05/26/2026	253744	20221243	AirBurners	10-202-100	115,895.00
05/26	05/29/2026	253745	145724	AMAZON CAPITAL SERVICES	10-202-100	1,522.18
05/26	05/29/2026	253746	20220035	AMERITAS LIFE INSURANCE COMPANY	10-202-100	837.04
05/26	05/29/2026	253747	726	BURLAP BAG	10-202-100	407.10
05/26	05/29/2026	253748	384	CLEARWAY ENERGY GROUP	10-202-100	3,528.04
05/26	05/29/2026	253749	1124	CLEARWAY ENERGY GROUP LLC	52-202-100	3,111.26
05/26	05/29/2026	253750	141873	EL PASO COUNTY CLERK & RECORDER	10-202-100	50.00
05/26	05/29/2026	253751	503	FEDERAL EXPRESS	52-202-100	49.91
05/26	05/29/2026	253752	20221028	FILANC	52-202-100	666,147.36
05/26	05/29/2026	253753	1024	GOODYEAR AUTO SERVICE CTR	10-202-100	947.24
05/26	05/29/2026	253754	432	GRAINGER	10-202-100	110.80
05/26	05/29/2026	253755	443	HINKLE & COMPANY, PC	10-202-100	12,500.00
05/26	05/29/2026	253756	20220432	IKON FIRE LLC	10-202-100	311.69
05/26	05/29/2026	253757	15009	JR ENGINEERING LLC	39-202-100	2,525.00
05/26	05/29/2026	253758	144777	L.N. CURTIS & SONS	39-202-100	653.55
05/26	05/29/2026	253759	202136	MANITOU SPRINGS COMMUNITY FOUNDATION	29-202-100	2,650.00
05/26	05/29/2026	253760	1009	MARCUS ELECTRIC LLC	55-202-100	2,300.00
05/26	05/29/2026	253761	20220651	MBI - MEDICINE FOR BUSINESS AND INDUSTRY	10-202-100	315.00
05/26	05/29/2026	253762	145606	MILE HIGH ACE HARDWARE	55-202-100	193.77
05/26	05/29/2026	253763	20220214	MUNICIPAL TREATMENT EQUIPMENT	52-202-100	428.83
05/26	05/29/2026	253764	169	NAPA AUTO PARTS	10-202-100	179.65
05/26	05/29/2026	253765	2021089	NATIONSEARCH.COM LLC	10-202-100	597.92
05/26	05/29/2026	253766	20220037	NEW YORK LIFE	10-202-100	2,145.95
05/26	05/29/2026	253767	20221067	NTIVA ACCOUNTING DEPT	10-202-100	23,008.94
05/26	05/29/2026	253768	415	OLSON PLUMBING & HEATING	10-202-100	7,972.32
05/26	05/29/2026	253769	20220774	ORGANIC GARDENING SERVICES LLC	10-202-100	4,904.78
05/26	05/29/2026	253770	160025	PRODUCTION PRINTING D11	10-202-100	394.79
05/26	05/29/2026	253771	855	ROCKY MOUNTAIN AIR SOLUTIONS	52-202-100	198.00
05/26	05/29/2026	253772	20200287	SHELDON'S AUTO REPAIR	10-202-100	936.74
05/26	05/29/2026	253773	145602	SITEONE LANDSCAPE SUPPLY	10-202-100	347.81
05/26	05/29/2026	253774	160263	TALL TIMBERS TREE & SHRUB SERVICE INC	10-202-100	1,000.00
05/26	05/29/2026	253775	940	TIMBER LINE ELECTRIC	52-202-100	316.93
05/26	05/29/2026	253776	20221166	TOFFEL, LESLIE E	10-202-100	874.70
05/26	05/29/2026	253777	20200273	WOLFCO COMMERCIAL SERVICES	10-202-100	772.60
Grand Totals:		<u>162</u>				<u>1,522,376.84</u>

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Report Criteria:

Report type: Summary

Check.Type = {<>} "Adjustment"

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## Memorandum

Title: June 2, 2026 City Council Meeting Minutes

From: City Clerk's Office

To: Mayor and City Council

CC: City Administrator Denise Howell

Allocated Time: 5 Minutes

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June 16, 2026

### **Purpose:**

To review and approve the meeting minutes from the June 2, 2026 City Council meeting.

### **Background:**

The City Council met in regular session on June 2, 2026.

### **Fiscal Impact:**

None.

### **Workload Impact:**

Approximately two hours to attend the meeting and to prepare and review the minutes.

### **Recommended Action:**

Approve the June 2, 2026 City Council regular meeting minutes through the approval of the consent calendar.

**CITY OF MANITOU SPRINGS**  
**CITY COUNCIL**  
Regular Meeting Minutes  
606 Manitou Avenue  
June 2, 2026

The City Council of Manitou Springs met in Regular Session on Tuesday, June 2, 2026, at 606 Manitou Avenue, in the City of Manitou Springs, County of El Paso, and State of Colorado.

**COUNCIL MEMBERS PRESENT FOR ROLL CALL:**

Mayor Natalie Johnson  
Councilor Judith Chandler  
Councilor John Shada  
Councilor Nathan Nassif  
Councilor Carey Storm  
Councilor Gloria Latimer

**COUNCIL MEMBERS ABSENT FOR ROLL CALL:**

Councilor Julie Wolfe (Arrived at 6:36 PM)

**A. CALL TO ORDER**

Mayor Johnson called the meeting to order at 6:00 PM.

**B. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

**C. ROLL CALL**

All members of the City Council were present for roll call, except for Councilor Wolfe.

**D. APPROVAL OF AGENDA**

Councilor Storm moved to approve the agenda as presented. The motion was seconded by Mayor Pro Tem Chandler. The motion carried unanimously (6-0).

**E. PUBLIC COMMENT ON NON-AGENDA ITEMS**

Peggy Dlugos, Manitou Springs Resident, stated that, in her view, the Police Chief's comments during the May 12, 2026 City Council Work Session reflected concerns about inadequate resources to safely manage the event. She expressed appreciation for Councilors who acknowledged those concerns and considered all options, including limiting attendance or cancellation. Dlugos noted that many business owners and

residents emphasized the event's economic importance during the May 19, 2026 City Council meeting but, in her view, gave insufficient attention to safety concerns. Drawing on her experiences growing up in New Orleans and observing changes to Mardi Gras over time, she cautioned against allowing the event to grow in ways that could compromise public safety. She urged Council to prioritize safety considerations when evaluating the future of the event.

## **F. CONSENT CALENDAR**

1. May 19, 2026 City Council Minutes
2. Resolution No. 1526, A Resolution of the City Council of the City of Manitou Springs, Colorado, Appointing a Council Member to Serve as Liaison to The Manitou Springs Metropolitan District
3. Approval of Filanc Change Order No. 5 for the Water Treatment Plant Improvements 2024 Project
4. Approval of Contract with Concrete Experts for El Paso County CDBG funded project Pawnee ADA & Stormdrainage Improvements
5. Approval of the Joint Funding Agreement with US Geological Survey for the Hydrogeologic Analysis of the Manitou Springs Aquifer

Councilor Latimer moved to approve the consent calendar as presented. The motion was seconded by Councilor Storm. The motion carried unanimously (6-0).

## **G. PRESENTATION**

1. Pikes Peak Range Riders and Pikes Peak or Bust Rodeo Presented by Girls of the West

Greg Budwine, representing the Pikes Peak Range Riders, provided an overview of the organization, noting that it was established in 1949 and has more than 200 members dedicated to supporting and promoting the Pikes Peak or Bust Rodeo. He highlighted the organization's Latigo Foundation, which provides youth with opportunities to learn the "Cowboy Way." Budwine announced that the Colorado Springs Street Breakfast will be held on June 17, 2026, beginning at 5:30 AM, and invited the public to attend the Pikes Peak or Bust Rodeo.

Sean Guilfooy, Vice President of the Pikes Peak or Bust Rodeo, reviewed the history and mission of the rodeo, noting that it was founded in 1937 to celebrate Western heritage and support military service members and their families. He highlighted the rodeo's national recognition, broad attendance, and volunteer-driven organization, and invited the public to attend the upcoming event.

Corliss Palmer, Director of the Girl of the West Program, provided an overview of the program and its efforts to promote the Pikes Peak or Bust Rodeo through community and military outreach appearances. Palmer then introduced Kaylee Gripentrog, the 2026 Girl of the West, and highlighted her involvement with the Pikes Peak Rangerettes and her support of the rodeo's military-focused mission.

Kaylee Gripentrog, 2026 Girl of the West and ambassador for the Pikes Peak or Bust Rodeo, announced details of the upcoming National Finals Rodeo Open at the Pikes Peak or Bust Rodeo, scheduled for July 14, 2026 through July 18, 2026, at the Norris Penrose Event Center. She highlighted the rodeo's celebration of Western heritage, support of military members and their families, and encouraged attendance at both the rodeo and the June 17 Colorado Springs Western Street Breakfast.

Councilor Storm noted that attendance at the rodeo is a meaningful opportunity for Air Force Academy cadets and expressed appreciation for the organization's continued support of the military community.

## **H. BUSINESS**

### **1. Consider Appointing Tom Lundgren to the City Planning Commission**

Tom Lundgren, City Planning Commission (CPC) Applicant, introduced himself as a longtime Manitou Springs property owner of nearly 50 years and stated that he has participated in CPC and City Council meetings, adding that he is familiar with municipal processes and land use regulations. He noted his engineering background and extensive professional experience in the region. Lundgren expressed his interest in being appointed as an alternate member of CPC.

CPC Chair Alan Delwiche expressed support for Lundgren's appointment, noting that he understands the Commission's process through his involvement in neighborhood issues and is familiar with the Land Use and Development Code (LUDC). He stated that he believes Lundgren would be a thoughtful addition to the Commission.

Mayor Pro Tem Chandler moved to appoint Tom Lundgren to CPC as an Alternate Member. The motion was seconded by Councilor Nassif. The motion carried unanimously (6-0).

### **2. Consider Appointing Colton Berck to the City Planning Commission**

CPC Applicant Colton Berck stated that he has worked in the planning profession since approximately 2017 and currently serves as Planning Director for Teller County. He noted that he recently moved to the area and, while newer to the community, hopes to bring a different professional perspective to support planning efforts in Manitou Springs, expressing interest in applying his skills to benefit the community.

CPC Chair Delwiche noted that Berck has relevant planning experience, including work in Eagle County, and shared similarities with Manitou Springs.

Councilor Storm moved to appoint Colton Berck to CPC as an Alternate Member. The motion was seconded by Mayor Pro Tem Chandler. The motion carried (6-0).

CPC Chair Alan Delwiche noted the current ward representation on the Commission following the appointments of Colton Berck and Tom Lundgren, stating there are now two commissioners from Ward 3, two from Ward 1, and five from Ward 2. He expressed support for improved geographic balance on the Commission and appreciation for the additional representation.

Mayor Pro Tem Chandler expressed appreciation for efforts to maintain a balanced commission and stated that both applicants bring strong and impressive professional skill sets. She emphasized that, while geographic representation is a consideration, the applicants' qualifications and experience were particularly notable.

3. Consideration of Resolution No. 1326, A Resolution of the City of Manitou Springs, Colorado, Supporting the Placement of Public Art within Colorado Department of Transportation Right-of-Way and Authorizing Staff to Pursue Necessary Permits

Public Services Director Ben Schmitt explained that Colorado Department of Transportation's (CDOT) process for installing public art within the public right-of-way requires City Council support, community or governing body approval, and confirmation that public engagement has occurred. He noted that each installation must also meet applicable safety requirements, which vary depending on the type of artwork. Public Services Director Schmitt stated that approved installations would proceed through the City Council process and be managed under a special use permit, and identified Council action as the necessary first step in the process.

Mayor Pro Tem Chandler moved to approve Resolution No. 1326, A Resolution of the City of Manitou Springs, Colorado, Supporting the Placement of Public Art within Colorado Department of Transportation Right-of-Way and Authorizing Staff to Pursue Necessary Permits. The motion was seconded by Councilor Storm. The motion carried unanimously (6-0).

4. 2026 Art on the Avenue Review and Authorization

Audrey Gray, Executive Director of Creative Alliance Manitou Springs (CRANE), provided an overview of the 2026 Art on the Avenue installations. She noted that the proposed artworks have been shared on social media and have received positive public feedback. Executive Director Gray outlined several planned installations, including two pieces at Shoshone Pocket Park, a ceramic piece at Cheyenne Spring, a small dinosaur sculpture at Seven Minute Spring, and a replacement large-scale sculpture at the Serpentine Roundabout.

There was a brief discussion about the timeframe for installation of the proposed pieces. Executive Director Gray stated that the plan is to have all pieces installed by the end of July. She also confirmed that the installations would be for two-year terms.

Councilor Latimer moved to approve the proposed artwork for 2026 Art on the Avenue. The motion was seconded by Councilor Storm. The motion carried unanimously (6-0).

## **I. RECEIVE OR ACT ON COUNCIL CORRESPONDENCE**

There was a brief discussion regarding fire mitigation in Open Space. City Administrator Denise Howell reported that staff has ordered one piece of equipment, posted three positions, and begun the process to implement an alarm system following receipt of funding from the Department of Local Affairs (DOLA). She also confirmed a request from staff to provide an update to the Open Space Advisory Committee (OSAC).

Mayor Johnson noted the importance of the City's new compact fire apparatus, emphasizing its value for maneuverability within the community and its contribution to overall fire management and mitigation efforts.

**Note for the Record** – Councilor Wolfe arrived at 6:36 PM.

Councilor Nassif confirmed that the Pool and Fitness Center mural will be featured during the upcoming Friday Art Walk.

Councilor Latimer announced that the Police Chief, City Administrator, and Chamber of Commerce Chair will be meeting on June 3, 2026 to discuss public safety concerns regarding the Coffin Races. She reported that residents on Waltham Avenue have had a positive experience with the gas replacement project, noting only a minor issue after a "Do Not Enter" sign was removed, which temporarily caused confusion. City Administrator Howell confirmed the issue was addressed and is being managed.

Mayor Johnson shared that a resident reported a positive experience in setting up autopay in the new water billing system. She stated that the Pikes Peak Area Council of Governments (PPACG) has an opening on the Board.

## **J. CITY ADMINISTRATOR REPORT**

City Administrator Howell reported on the following:

- The Capitol Hill manhole was completed during the prior week.
- She recognized the Fire and Police Departments for their service in a recent emergency operation on the Incline, as well as the support provided by Pikes Peak Cog Railway.
- The City is close to launching the online water meter system, with an anticipated release in about a week. The system will help track water use and identify leaks.

## K. EXECUTIVE SESSION

1. An Executive Session to hold a conference with the City attorney for legal advice pursuant to Section 5.1(c) of the City of Manitou Springs Home Rule Charter, concerning *Manitou and Pikes Peak Railway Company v. City of Manitou Springs, Colorado*, El Paso County District Court Case No. 2025CV30766

Mayor Johnson read the purpose of the Executive Session into the record at 6:39 PM.

Mayor Pro Tem Chandler moved to enter the Executive Session for the stated purpose. The motion was seconded by Councilor Wolfe. The motion was carried unanimously (7-0).

The City Council moved back to Regular Session at 8:13 PM. Mayor Johnson confirmed the Executive Session was held solely for the stated purpose and that no formal decision was made.

## ADJOURN

With no other items to discuss, Councilor Shada moved to adjourn the meeting. The motion was seconded by Mayor Pro Tem Chandler. The motion carried (7-0). The meeting adjourned at 8:13 PM.

Attest:

\_\_\_\_\_  
Natalie Johnson, Mayor

\_\_\_\_\_  
Elena Krebs, City Clerk

*If you need this document in an alternative format, such as large print, accessible PDF, or Braille, please contact the City Clerk's Office at [cityclerk@manitouspringsco.gov](mailto:cityclerk@manitouspringsco.gov) or (719) 685-2554.*



## Memorandum

Title: Authorization to Enter into an Agreement with Myers & Sons Construction, LLC for Construction Manager/General Contractor Services for Lovers Lane Creek Retaining Wall Replacement

From: Ben Schmitt, Public Services Director

To: Mayor and City Council

CC: City Administrator Denise Howell

Allocated Time: 10 Minutes

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June 16, 2026

### **Purpose:**

To authorize the Public Services Department to enter into an American Institute of Architects (AIA) Standard Form Agreement with Myers & Sons Construction, LLC to provide Construction Manager/General Contractor (CM/GC) services for the Lovers Lane Creek Retaining Wall Replacement Project.

### **Background:**

The existing retaining wall along Lovers Lane extends approximately 200 feet along Fountain Creek and provides structural support for the roadway embankment. In fall 2024, the wall experienced a partial structural collapse, creating an immediate threat to public infrastructure and safety. In January 2025, City Council approved an emergency stabilization repair consisting of a soil nail wall installed over approximately 30 feet. This repair functions as a permanent localized stabilization measure and will remain incorporated into the final design. While the emergency work stabilized the most critical failure area, the remaining wall segments are structurally deficient and continue to present risk of embankment loss, roadway failure, and channel encroachment during high-flow events. To advance a permanent solution, the City issued RFQ 2026-009 to procure CM/GC services.

### **Project Scope and Technical Approach**

The project consists of preconstruction services and the potential construction of a full retaining wall replacement and associated infrastructure improvements. The proposed design incorporates a micropile A-frame retaining wall system with a shotcrete facing. This approach allows the replacement wall to be constructed along the existing alignment, avoiding the need for permanent right-of-way acquisition and eliminating the need for a Conditional Letter of Map Revision (CLOMR) or a Letter of Map Revision (LOMR) floodplain modifications.

In addition to the retaining wall, the project includes reconstruction of the roadway



section through installation of a structural moment slab, bridge-style railing, guardrail transitions, and asphalt paving. The project also includes coordination of existing utilities, including evaluation of potential relocation of the existing waterline to increase separation from the sanitary system and maintain long-term system resilience.

Due to the project's location within an active creek corridor, construction will require temporary diversion of Fountain Creek, dewatering, and phased in-channel construction. This work must be carefully sequenced to maintain channel stability, protect public infrastructure, and allow rapid restoration of safe flow conditions in the event of storm events. Additional complexity includes temporary support of the existing wall during demolition, coordination with overhead utilities, and maintaining roadway embankment stability throughout construction. The project design is currently at approximately 30 percent completion. Engagement of a CM/GC contractor at this stage allows the City to integrate construction expertise into final design development to improve constructability, reduce risk, and validate costs prior to final pricing.

#### **Contractor Selection – Myers & Sons Construction, LLC**

Following the Qualifications-Based Selection process, the City selected Myers & Sons Construction, LLC as the most qualified firm to provide CM/GC services. The firm was selected based on demonstrated experience delivering complex heavy civil infrastructure projects, including retaining walls, bridge structures, and construction within waterway environments. Myers & Sons Construction, LLC has demonstrated experience utilizing CM/GC (Construction Manager At Risk) delivery methods on projects with similar risk profiles. Their approach emphasizes early collaboration, constructability analysis, and active risk management during design. The firm has specific expertise in creek diversion and dewatering operations, utility coordination and relocation, and identifying construction methods that minimize risk to adjacent infrastructure. Under the proposed agreement, Myers & Sons will provide preconstruction services including cost estimating, scheduling, constructability review, and value engineering. The firm will also perform an Independent Design Check of the retaining wall system and assist in developing a Guaranteed Maximum Price (GMP) using an open-book pricing approach with subcontractor participation. If a GMP cannot be successfully negotiated, the City retains the ability to pursue alternate delivery methods.

#### **Temporary and Permanent Repair Strategy**

The project reflects a phased approach that balances immediate stabilization with long-term infrastructure replacement. The emergency soil nail repair completed in 2025 addressed the most critical failure area and remains a permanent component of the system. The current project represents the next phase, which includes full replacement of the remaining wall segments using a more robust structural system designed for



long-term performance. This phased strategy allowed the City to mitigate immediate public safety risks while maintaining flexibility to develop a comprehensive and cost-effective permanent solution. It also preserved the ability to align the final design with funding availability, permitting requirements, and site constraints.

### **Benefits of CM/GC Delivery**

The CM/GC delivery method provides significant advantages for this project compared to a traditional design-bid-build approach. Early contractor involvement allows construction risks to be identified and addressed during design, particularly those associated with in-channel work, wall stability during staged demolition, and unknown subsurface or utility conditions. This approach reduces the likelihood of redesign, delays, and cost escalation during construction. The iterative cost estimating process at 30, 60, and 90 percent design provides continuous cost validation and allows the project team to evaluate design alternatives in real time. This leads to improved constructability, optimized design decisions, and better alignment with the project budget.

The use of an open-book pricing model and development of a GMP provides a high level of cost transparency and budget control. Risks are identified and accounted for before construction begins, reducing the likelihood of significant change orders that are more common in traditional delivery methods. In addition, CM/GC supports improved schedule control through detailed phasing and coordination of critical activities such as creek diversion, roadway closure, and utility relocation. Early coordination with utilities and regulatory agencies further reduces the risk of delays and supports timely project delivery.

### **Fiscal Impact:**

The total project budget is approximately \$2.2 million. The requested authorization of \$92,000 is for preconstruction services only. The project is funded through the Pikes Peak Rural Transportation Authority (PPRTA).

### **Workload Impact:**

City staff will provide contract administration, engineering oversight, public communication, and coordination with external partners. Project management support will be supplemented through existing consultant contracts to ensure effective delivery and compliance with funding requirements.

### **Recommended Action:**

Approve the American Institute of Architects (AIA) Standard Form Agreement with Myers & Sons Construction, LLC to provide Construction Manager/General Contractor (CM/GC) services for the Lovers Lane Creek Retaining Wall Replacement Project



through the approval of the consent calendar.

 **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 Sixteenth day of June in the year Two Thousand and Twenty Six  
*(In words, indicate day, month, and year.)*

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

City of Manitou Springs  
606 Manitou Avenue  
Manitou Springs, CO 80829  
(719) 685-5481

*And*

Pikes Peak Rural Transit Authority (PPRTA)  
15 S 7<sup>th</sup> St.  
Colorado Springs  
CO 80905

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

Myers & Sons Construction, LLC  
45 Morrison Avenue  
Sacramento  
CA 95838

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

CM/GC Services for Lovers Lane Creek Retaining Wall Replacement  
RFQ 2026-009

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

Rocksol Consulting Group  
12076 Grant St.  
Thornton  
CO 80241

The Owner and Construction Manager agree as follows.

**ADDITIONS AND DELETIONS:**

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

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

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

Init.

TABLE OF ARTICLES

1 INITIAL INFORMATION  
2 GENERAL PROVISIONS  
3 CONSTRUCTION MANAGER'S RESPONSIBILITIES  
4 OWNER'S RESPONSIBILITIES  
5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES  
6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES  
7 COST OF THE WORK FOR CONSTRUCTION PHASE  
8 DISCOUNTS, REBATES, AND REFUNDS  
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12 DISPUTE RESOLUTION  
13 TERMINATION OR SUSPENSION  
14 MISCELLANEOUS PROVISIONS  
15 SCOPE OF THE AGREEMENT

EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT  
EXHIBIT B INSURANCE AND BONDS

Exhibit C – Attachment C – Fee Proposal Form  
Exhibit D – RFQ for CM/GC Services for Lovers Lane Creek Retaining Wall Replacement  
Exhibit E – Myers & Sons Construction, LLC Proposal  
Exhibit F – Myers & Sons Construction, LLC Article Fee Breakdown  
Exhibit G – PPRTA Funded Projects Special Provisions

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 Exhibit B – RFQ # 2026-009

§ 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.)*

Located on Lover's Lane approximately 500' East of Lafayette Rd. and 600' West of El Paso Blvd. in the NE ¼ and the NW ¼ of the SW ¼ of Section 5, Township 14 South, Range 67 West of the 6<sup>th</sup> Principal Meridian, City of Manitou Springs, County of El Paso, State of Colorado.

§ 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.)*

Init.

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Niney-Two-Thousand (\$92,000) Dollars – for Preconstruction Services with an estimated construction cost of Two-Million, Three-Hundred-Thousand (\$2,300,000) Dollars.

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

.1 Design phase milestone dates, if any:

Anticipated October 2026

.2 Construction commencement date:

Anticipated November 2026

.3 Substantial Completion date or dates:

Anticipated May 2027

.4 Other milestone dates:

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

Not Applicable

§ 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.)*

Not Applicable

§ 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.)*

Not Applicable

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

John Chavez  
Chavez Consulting Inc., LLC  
13880 Gymkhana Rd.  
Peyton, CO 80831  
johnchavez@chavezconsultinginc.com  
(719) 251-5580

And

Benjamin Schmitt  
City of Manitou Springs – Public Services Director  
606 Manitou Ave.,  
Manitou Springs, CO 80829  
bschmitt@manitouspringsco.gov

§ 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.)*

PPRTA Representatives TBD

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

.1 Geotechnical Engineer:

TBD

.2 Civil Engineer:

JR Engineering  
5475 Tech Center Drive, Suite 235  
Colorado Springs, CO 80919  
(719) 593-2593

.3 Other, if any:

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

Construction Material Testing, Third Party Inspector (if needed) and Project Manager.

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

Dan Beltzer  
Rocksol Consulting Group  
12076 Grant St.  
Thornton, CO 80241  
beltzer@rocksol.com  
(303) 570-3699

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

Matt Tolsma  
12700 E. 168<sup>th</sup> Ave.  
Brighton, CO 80601  
(651) 587-8682  
mtolsma@myers-sons.com

§ 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.)

Refer to Exhibit D – RFQ for CM/GC Services for Lovers Lane Creek Retaining Wall Replacement

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

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

- Exhibit A Guaranteed Maximum Price Amendment
- Exhibit C – Attachment C – Fee Proposal Form
- Exhibit D – RFQ for CM/GC Services for Lovers Lane Creek Retaining Wall Replacement
- Exhibit E – Myers & Sons Construction, LLC Proposal
- Exhibit F – Myers & Sons Construction, LLC Article Fee Breakdown
- Exhibit G – PPRTA Funded Projects Special Provisions

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

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

## ARTICLE 2 GENERAL PROVISIONS

### § 2.1 The Contract Documents

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

### § 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. 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

§ 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;

Init.

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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.

#### § 3.1 Preconstruction Phase

##### § 3.1.1 Extent of Responsibility

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

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

##### § 3.1.3 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 written protocols for the development, use, transmission, reliance, and exchange of digital data, including building information models for the Project.

##### § 3.1.4 Project Schedule

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

### **§ 3.1.5 Phased Construction**

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

### **§ 3.1.6 Cost Estimates**

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

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

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

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

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

**§ 3.1.9** The Construction Manager shall provide a staffing plan for Preconstruction 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, subject to applicable law, will use its best efforts to provide those subcontractors opportunities to bid on Work associated with the Project. As working drawings and specifications are completed, Construction Manager will establish bidding schedules and conduct pre-bid conferences to familiarize bidders with bidding documents, management techniques and any special systems, materials or methods. Construction Manager will prepare scope packages for each trade which clearly identify the bid scope, including general conditions items such as cleanup and safety. Construction Manager will review scope packages with the Owner and Architect prior to issuing same to subcontractors. 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. Construction manager will analyze all bids and prepare; (1) a bid matrix and scoring method, (2) written bid analysis, (3) review bids and bid analysis with the Owner

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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 most advantageous to the Owner, in Owner's sole discretion. The Owner is not bound to accept the lowest-priced bid if that proposal is not in the best interests of Owner as determined by Owner.

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

#### § 3.1.12 Procurement

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

#### § 3.1.13 Compliance with Laws

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

#### § 3.1.14 Other Preconstruction Services

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

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

Collaboration with the Owner and Design Team; meeting attendance, including City Council meetings, community meetings; progress document reviews, estimating and pricing exercises in addition to milestone cost estimates; value analysis for cost-saving and value enhancements; competitively bidding all work and setting the guaranteed maximum price; establishing a detailed construction schedule identifying long lead items and critical path activities; instituting and managing the submittal process.

Refer to Exhibit F – Myers & Sons Construction, LLC Article Fee Breakdown

#### § 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;

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

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

§ 3.2.4.1 Under no circumstances is the contingency to be used by the Owner for increases in the scope, quality or quantity of the Work without prior approval from the Construction Manager; nor by the Construction Manager 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 Construction Manager; or similar Construction Manager's errors or omissions without approval from the Owner. The contingency is intended to cover minor design conflicts not reasonably inferable from the Contract Documents and construction conflicts in the field, as well as any bidding errors, as required to execute the scope outlined in this Agreement. It is not intended to cover and shall not cover scope changes made by the Owner, code or permit changes, Construction Manager self-performed work, General Conditions, contractor rework, defective work or warranty work, unforeseen conditions, cost increases caused by lack of coordination or communication with subcontractors, or to contract with subcontractors who should have been engaged during the bidding process to carry out the Work.

§ 3.2.4.2 Construction Manager's access to the contingency shall be approved in writing on a per instance basis by the Owner if it complies with the above requirements, such approval not to be unreasonably withheld. Prior to utilizing the contingency, Construction Manager shall provide Owner with detailed documentation of the Work affected and the basis for any increases in cost. Construction Manager shall provide Owner with written monthly updates on the status of the contingency.

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

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

§ 3.2.7 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.

### § 3.3 Construction Phase

#### § 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201-2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

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

### § 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. The construction schedule shall be incorporated into the Guaranteed Maximum Price proposal and must show a reasonable critical path in adequate detail to track the detail of every critical and major element of the Project. The Construction Phase of the schedule must also incorporate the sequencing and interrelationship between each of the trades. Under no circumstance shall the Date of Final Completion be adjusted without an executed Change Order.

### § 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.

### § 3.3.2.6 Project Scheduling and Reporting

§ 3.3.2.6.1 Construction Manager shall carry out the Work in accordance with the Project Schedule which shall be incorporated into Exhibit A – Guaranteed Maximum Price Amendment so as to ensure Final Completion of the Project.

"Final Completion" of the Project under this Agreement shall mean 100% completion of each and every element of the Work in conformity with the Contract Documents. The term "Date of Final Completion" shall mean the date on which Final Completion is achieved as certified by the Architect.

§ 3.3.2.6.2 Construction Manager and Owner, as deemed necessary by the Owner, shall also hold monthly meetings at the Site (or at another location reasonably acceptable to Owner and Construction Manager) throughout construction of the Project to thoroughly discuss the progress of the Work, and such meetings shall be attended by Construction Manager's Representative, by Owner's Representative, and by such additional representatives of each party as they deem necessary or appropriate.

§ 3.3.2.6.3 Construction Manager shall prepare and submit, with each monthly application for payment, a schedule for the execution of the Work for Owner's review and response. The schedule shall contain detail appropriate for the Project, including (1) the effective date of the Contract, (2) key milestones for project submittals, (3) the date of commencement of the Work, (4) interim schedule milestone dates, (5) an apportionment of the Work by construction activity; and (6) 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 Project. The Owner may also request at intervals throughout the Project an updated schedule in the native file format.

§ 3.3.2.6.4 The Construction Manager shall also prepare a three- (3-) week look ahead schedule each week for review with the Owner, focusing on the in-depth detail of the upcoming weeks activities in a manner that reflects the planned day-to-day activities.

#### ARTICLE 4 OWNER'S RESPONSIBILITIES

##### § 4.1 Information and Services Required of the Owner

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

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

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

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

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

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

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

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

*(Paragraph deleted)*

**§ 4.2 Owner's Designated Representative**

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

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

**§ 4.3 Architect**

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™-2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for 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.)*

Refer to Exhibit F – Myers & Sons Construction, LLC Article Fee Breakdown

**§ 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.)*

Refer to Exhibit F – Myers & Sons Construction, LLC Article Fee Breakdown

**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.

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

**§ 5.2 Payments**

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

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

*(Insert rate of monthly or annual interest agreed upon.)*

% statutory rate

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## 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.)*

Refer to Exhibit F – Myers & Sons Construction, LLC Article Fee Breakdown

§ 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 Exhibit F – Myers & Sons Construction, LLC Article Fee Breakdown, Hourly Rates and Contract Terms 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. For deductive changes to the Guaranteed Maximum Price as established in Exhibit F, 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

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

Change Order Markup: overhead and profit (fee) costs for any change shall not exceed a total of 10%, inclusive of materials suppliers, subcontractors, and CM/GC unless change is mutually agreed upon Owner and Construction Manager

§ 6.1.5 4 Not Applicable

§ 6.1.6 Liquidated damages, if any:

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

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 fourteen (14) calendar days of the Contract Time is Five Hundred Dollars (\$500.00) per day, and Construction Manager 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.

§ 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.)*

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

### § 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. The Guaranteed Maximum Price shall be determined when Design Development documents are 100% complete and approved by Owner and made part of this Agreement by written amendment hereto. Construction Manager does not guarantee any specific line item estimate provided within the Guaranteed Maximum Price with the right to reallocate, refer to 11.1.5.2.

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User Notes:

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**§ 6.3 Changes in the Work**

**§ 6.3.1** The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work. Changes in the Work shall not be the basis of an addition to the Guaranteed Maximum Price, Project Schedule, or the Construction Manager's Fee unless and until such change has been approved and authorized by a Change Order executed and issued in accordance with the Contract Documents.

**§ 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 Guaranteed Maximum Price shall be adjusted accordingly.

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

**§ 7.1 Costs to Be Reimbursed**

**§ 7.1.1** The term Cost of the Work shall mean costs necessarily 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. as modified by Exhibit A – Guaranteed Maximum Price Amendment. Should there be a conflict between the terms describing the Cost of the Work and Exhibit A – Guaranteed Maximum Price Amendment, Exhibit A – Guaranteed Maximum Price Amendment shall prevail.

**§ 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.

**§ 7.1.4** Contractor's General Conditions Costs are defined as those costs that are itemized and identified in Exhibit A Guaranteed Maximum Price Amendment.

**§ 7.2 Labor Costs**

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

**§ 7.2.2**

Wages or salaries of the Construction Manager's supervisory and administrative, but only for that portion of time required for the Work, regardless of where the personnel are stationed, at rates set forth in Exhibit F – Myers & Sons Construction, LLC Article Fee

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§ 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.)*

Refer to Exhibit F – Myers & Sons Construction, LLC Article Fee

§ 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, at rates set forth in Exhibit F – Myers & Sons Construction, LLC Article Fee.

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

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

### § 7.3 Subcontract Costs

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

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

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

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

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

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

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

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

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

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

**§ 7.6 Miscellaneous Costs**

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

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

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

**§ 7.6.2** 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.

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

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

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

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

**§ 7.6.7** Costs of document reproductions and delivery charges.

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

**§ 7.6.9**

**§ 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.

**§ 7.7.3** Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or

failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

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

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

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

## ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

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

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

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

## ARTICLE 10 ACCOUNTING RECORDS

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

## ARTICLE 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, Owner's Representative and Owner, and/or 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 5th day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 5th day of the following month. If an Application for Payment is received by the Architect after the application date fixed above,

payment of the amount certified shall be made by the Owner not later than Thirty ( 30 ) days after the Architect receives the Application for Payment.

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

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that 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 may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values. The Construction Manager may in its discretion reallocate any portion of the GMP among the various items in the schedule of values, including Contingency, and neither the Owner or Architect may deny payment to the Construction Manager on the basis that such payment would cause an item in the schedule of values to be exceeded.

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

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

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

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

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

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

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

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- .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;
- .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.)*

Five (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.)*

TBD

**§ 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.)*

If the Owner finds that satisfactory progress is being made in any phase of the contract, it may, upon written request by the contractor, authorize final payment from the withheld percentage to the contractor or subcontractors who have completed their work in a manner finally acceptable to the public entity. Before the payment is made, the public entity shall determine that satisfactory and substantial reasons exist for the payment and shall require written approval from any surety furnishing bonds for the contract work.

**§ 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.)*

For any scopes of work remaining on the punch list

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

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

**§ 11.1.11** 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

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the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

## § 11.2 Final Payment

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

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201-2017, 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, along with final subcontractor conditional lien waivers; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.
- .4 The Architect has confirmed that all items identified on the punch list have been completed and has provided written approval/sign-off;
- .5 All as-built drawings and operations and maintenance manuals and warranties have been reviewed and approved by Architect and Owner Representative and have been delivered to the Owner;
- .6 Construction Manager has provided consent of surety; and
- .7 Notification of final settlement is advertised in 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 Colorado Revised Statute §38-26-107. The Owner shall withhold from all payments to Construction Manager sufficient funds to insure the payment of all claims filed by any person that has furnished labor, materials, sustenance, or other supplies used or consumed by Construction Manager or a subcontractor in or about the performance of the Work, or that supplies laborers, rental machinery, tools, or equipment to the extent used in the prosecution of the Work whose claim therefore has not been paid by Construction Manager or the subcontractor, all in accordance with the provisions of Colorado Revised Statute §38-26-107.

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

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

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

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

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

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

§ 11.3 Interest

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

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

| % statutory

ARTICLE 12 DISPUTE RESOLUTION

| *(Paragraphs deleted)*

§ 12.2 Binding Dispute Resolution

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

*(Check the appropriate box.)*

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

| [ X ] Litigation in a court of competent jurisdiction

| [ ] Other: *(Specify)*

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction. In the event of arbitration or litigation between the Owner and Construction Manager over this Agreement or this Project, the prevailing party in any dispute shall be entitled to recover its legal fees and expenses, including expert fees (hereinafter "Fees"), and any other costs allowable by law. For purposes of this Agreement, the prevailing party shall be determined utilizing the following method: (a) the claiming party is the prevailing party if it is awarded 80% or more of its claimed damages exclusive of costs, interests, and Fees; (b) the defending party is the prevailing party if the claiming party is awarded 20% or less of its claimed damages exclusive of costs, interest and Fees; and (c) neither party is the prevailing party and each party shall bear its own Fees if the claiming party is awarded greater than 20%, but less than 80%, of its claimed damages exclusive of costs, interest and Fees. The trier of fact shall utilize this method to determine the prevailing party regardless of the number of claims alleged by either party. Fees shall not include, however, costs incurred in mediation nor any mediator's fees and expenses.

ARTICLE 13 TERMINATION OR SUSPENSION

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

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

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

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without

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cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

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

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

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

§ 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

### § 13.2.1 Termination

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

### § 13.2.2 Termination by the Owner for Cause

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

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

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is

not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

**§ 13.2.3 Termination by the Owner for Convenience**

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, 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.)*

Take the Cost of the Work (including retainage) incurred by the Construction Manager to the date of termination;

**§ 13.3 Suspension**

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

**ARTICLE 14 MISCELLANEOUS PROVISIONS**

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

**§ 14.2 Successors and Assigns**

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

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

**§ 14.3 Insurance and Bonds**

**§ 14.3.1 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 One million dollars (\$ 1,000,000.00 ) for each occurrence and two million dollars (\$ 2,000,000.00 ) in the aggregate for bodily injury and property damage.

**§ 14.3.1.2** Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than one million dollars (\$ 1,000,000.00 ) 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.

**§ 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

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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 five hundred thousand dollars (\$ 500,000.00 ) each accident, five hundred thousand dollars (\$ 500,000.00 ) each employee, and one million dollars (\$ 1,000,000.00 ) policy limit.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than one million dollars (\$ 1,000,000.00 ) per claim and two million dollars (\$ 2,000,000.00 ) in the aggregate.

**§ 14.3.1.6 Other Insurance**

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

**Coverage**

**Limits**

§ 14.3.1.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner and Owner's Representative 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., which certificates shall provide that such insurance shall not be canceled or changed without at least thirty (30) days prior written notice to the Owner.

**§ 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.

*(Paragraphs 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 14.5.2 at:

Owner:

City of Manitou Springs  
606 Manitou Avenue  
Manitou Springs, CO 80829  
(719) 685-5481

*And*

Pikes Peak Rural Transit Authority (PPRTA)  
15 S 7<sup>th</sup> St.

Init.

Colorado Springs  
CO 80905

Owner's Representative:  
Chavez Consulting Inc., LLC  
13880 Gymkhana Road,  
Peyton, CO 80831

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

Myers & Sons Construction, LLC  
45 Morrison Avenue  
Sacramento  
CA 95838

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

CM/GC Services for Lovers Lane Creek Retaining Wall Replacement  
RFQ 2026-009

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

Rocksol Consulting Group  
12076 Grant St.  
Thornton  
CO 80241

Any notices directed hereunder to Construction Manager may be served on its Project Manager, via correspondence in writing by e-mail, US Mail and/or hand delivery.

§ 14.5.2 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.

§ 14.5.3 The Contractor acknowledges and agrees that it must comply with the Immigration Control Act of 1986.

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

§ 14.5.5 Owner requested Alternates shall include adjustment for Fee based on dollar volume and General Conditions if and only if the Alternate substantively affects the schedule beyond the terms of this Agreement. Construction Managers Voluntary Alternates must include all related costs, including impacts to the design and Owner's other costs that may be a result of implementation.

§ 14.5.6 The Owner has retained Chavez Consulting as the Owners Representative. The Construction Manager shall fully cooperate with the Owner and the Owner's Representative.

§ 14.5.7 The Construction Manager shall:

§ 14.5.7.1 Prepare and update a look-ahead project schedule on a weekly basis until Substantial Completion and provide copies to the Owner, the Owner's Representative, and the Architect.

§ 14.5.7.2 Support value-engineering efforts to reduce costs and to identify reasonable equivalent materials and

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supplies.

§ 14.5.7.3 Participate in Project meetings conducted by the Architect or Owner's Representative and develop and distribute meeting minutes, as requested.

§ 14.5.8 Construction Manager will procure and maintain and cause its subcontractors to procure and maintain the insurance described in this document.

§ 14.5.9 The Construction Manager shall maintain an accurate set of as-built drawings at the site. At the completion of the Work, the Construction Manager shall certify by signing on them that each of the as-built drawings and specifications are complete and accurate. No later than thirty (30) days after Substantial Completion of Owner's Work and prior to application for Final Payment, and as a condition to its approval by the Architect and Owner, the Construction Manager shall transfer the job site as-built drawings, arranged in proper order, indexed and certified as accurate to the Architect for transmittal to the Owner. The Construction Manager will not be responsible for transferring to the as-built documents any addenda, clarifications or changes documented by the consultants.

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

The Construction Manager shall, within sixty (60) days after it is filed or claimed, have released (by bonding or otherwise) any mechanics', material man's or other lien filed or claimed against any or all of the Project, by reason of labor or materials provided for or about any or all of the Project. The Construction Manager shall defend, indemnify and hold the Owner harmless against and from any and all liability, claim of liability or expense (including but not limited to that of reasonable attorney's fees) incurred on account of any such lien or claim.

If the Construction Manager fails to pay such lien within sixty (60) days after it first becomes effective against the Project or known to the Construction Manager, whichever is later, then, in addition to any other right or remedy held by the Owner on account thereof, the Owner may (a) discharge it by paying the amount claimed to be due or by deposit or bonding proceedings and/or (b) in any such event, compel the prosecution of any action for the foreclosure of any such lien by the lienor and pay the amount of any judgment in favor of the lienor with interest, costs and allowances. The Construction Manager shall reimburse the Owner promptly upon the Owner's demand therefor for any amount paid by the Owner to discharge any such lien and all expenses incurred by the Owner in connection therewith, together with interest thereon at a rate equal to the statutory rate described in the Colorado Revised Statutes.

§ 14.5.11 Construction Manager and Owner acknowledge that they or their employees may, in the performance of the resultant Contract, come into the possession of proprietary or confidential information owned by or in the possession of the other. Neither party shall use any such information for its own benefit or make such information available to any person, firm, corporation, or other organization, regardless of whether directly or indirectly affiliated with Construction Manager or Owner, unless (i) required by law, including to comply with lawful request under the Colorado Open Records Act C.R.S. §§24-72-201, et seq., as amended, and other applicable laws, (ii) by order of any court or tribunal, (iii) such disclosure is necessary for the assertion of a right, or defense of an assertion of a right, by one party against the other party hereto, or (iv) such information has been acquired from other sources.

§ 14.5.12 Construction Manager agrees that it shall not publicize this Contract or disclose, confirm or deny any details thereof to third parties or use any photographs or video recordings of Owner's employees or use Owner's name in connection with any sales promotion or publicity event without the prior express written approval of Owner.

§ 14.5.13 Construction Manager agrees that at all times its employees will observe and comply with all regulations of the facilities, including but not limited to, no smoking, and parking and security regulations. Construction Manager shall also abide at all times by all applicable Owner policies and procedures, including without limitation those related to the prohibited use and/or possession of alcohol, tobacco or firearms on Owner's property. The Construction Manager shall at all times strictly enforce this prohibition among its own employees and its consultants and their employees.

§ 14.5.14 The Construction Manager shall include with every subcontract agreement the following language:  
"Subcontractor binds itself to Construction Manager and Owner and is obligated to Construction Manager and Owner in

the same manner and to the same extent that Construction Manager is bound and obligated to Owner under the Prime Contract. All Rights which Owner may exercise and enforce against Construction Manager may be exercised and enforced by Owner against Subcontractor. In the event of any dispute between the Owner and Construction Manager, Subcontractor shall be bound by all decisions, directives, and interpretations and rulings of the Owner, including Owner's termination or suspension of Construction Manager."

§ 14.5.15 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, 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.

§ 14.5.16 Construction Manager is responsible only for construction of the Project according to the Contract Documents. Construction Manager is not a licensed design professional and has no professional qualifications in architecture, structural, mechanical, electrical, civil or acoustical engineering. Any value engineering recommendations or alternate material suggestions by Construction Manager are subject to prior approval and acceptance by Owner and Architect.

§ 14.5.17 Construction Manager assumes the project is constructed as recommended by the Soils Engineer employed by Owner to reduce the risk of damage from soil movement. Owner agrees to hold Construction Manager harmless from any claims for damages that may result from soil movement, as the design is not within Construction Manager's Scope of Work.

§ 14.5.18 It is the responsibility of the Owner to address all potential issues with adjoining property owners such as party lines, zero lot lines, site drainage, etc. before the commencement of construction. The Construction Manager specifically excludes costs resulting from issues with adjoining properties not caused by Construction Manager.

§ 14.5.19 The Parties acknowledge and agree that, due to current extraordinary circumstances and market demands, there is the potential for material cost increases and delays in deliveries of various construction materials. Because of the unpredictable nature of such material shortages, tariffs, price and schedule protection cannot be guaranteed for trades whose work includes these construction materials. The construction materials affected include, but are not limited to all steel-related products, all wood-related products, concrete, petroleum related products, etc. Unless noted otherwise, the Contractor has not included an escalation factor or contingency in the GMP or additional time in the schedule for these items. Contractor will use reasonable efforts to minimize any impacts, however, in the event the Cost of Work increases due to such material cost increase beyond Contractor's reasonable control, the Contract Sum shall be increased accordingly. In the event material (s) shortages impact the critical path schedule activities, Contractor is entitled to an extension of time and General Conditions, refer to 3.3.2.6.

§ 14.5.20 Due to partial funding by Pikes Peak Rural Transportation Authority, Construction Manager shall comply with and sign Exhibit G – PPRTA Funded Projects Special Provisions.

## ARTICLE 15 SCOPE OF THE AGREEMENT

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

§ 15.2 The following documents comprise the Agreement:

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

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

[ ]

- Exhibit A Guaranteed Maximum Price Amendment
- Exhibit B – Bonds and Insurance
- Exhibit C – Attachment C – Fee Proposal Form
- Exhibit D – RFQ for CM/GC Services for Lovers Lane Creek Retaining Wall Replacement
- Exhibit E – Myers & Sons Construction, LLC Proposal
- Exhibit F – Myers & Sons Construction, LLC Article Fee Breakdown

[ X ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
Exhibit G	PPRTA Funded Projects Special Provisions	August 17, 2016	2

.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.

CITY OF MANITOU SPRINGS

\_\_\_\_\_  
OWNER (Signature)

Init

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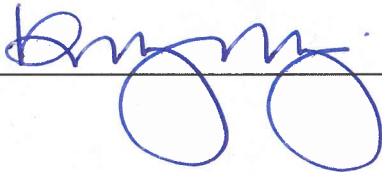
# CALIFORNIA NOTARIAL CERTIFICATE (JURAT)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Sacramento

Subscribed and sworn to (or affirmed) before me on this 8<sup>th</sup> day of June,  
20 20, by Kurtis Frailey, proved to me on the basis of satisfactory  
evidence to be the person(s) who appeared before me.

Signature \_\_\_\_\_



(Seal)



# **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 16:57:29 ET on 06/08/2026.

**PAGE 1**

**AGREEMENT** made as of the Sixteenth day of June in the year Two Thousand and Twenty Six

...

City of Manitou Springs  
606 Manitou Avenue  
Manitou Springs, CO 80829  
(719) 685-5481

*And*

Pikes Peak Rural Transit Authority (PPRTA)  
15 S 7<sup>th</sup> St.  
Colorado Springs  
CO 80905

...

Myers & Sons Construction, LLC  
45 Morrison Avenue  
Sacramento  
CA 95838

...

CM/GC Services for Lovers Lane Creek Retaining Wall Replacement  
RFQ 2026-009

...

Rocksol Consulting Group  
12076 Grant St.  
Thornton  
CO 80241

**PAGE 2**

Per Exhibit B – RFQ # 2026-009

...

Located on Lover's Lane approximately 500' East of Lafayette Rd. and 600' West of El Paso Blvd. in the NE ¼ and the NW ¼ of the SW ¼ of Section 5, Township 14 South, Range 67 West of the 6<sup>th</sup> Principal Meridian, City of Manitou Springs, County of El Paso, State of Colorado.

**PAGE 3**

Niney-Two-Thousand (\$92,000) Dollars – for Preconstruction Services with an estimated construction cost of Two-Million, Three-Hundred-Thousand (\$2,300,000) Dollars.

...

Anticipated October 2026

...

Anticipated November 2026

...

Anticipated May 2027

...

Not Applicable

...

Not Applicable

...

Not Applicable

...

John Chavez  
Chavez Consulting Inc., LLC  
13880 Gymkhana Rd.  
Peyton, CO 80831  
johnchavez@chavezconsultinginc.com  
(719) 251-5580

And

Benjamin Schmitt  
City of Manitou Springs – Public Services Director  
606 Manitou Ave.,  
Manitou Springs, CO 80829  
bschmitt@manitouspringsco.gov

**PAGE 4**

PPRTA Representatives TBD

...

TBD

...

JR Engineering  
5475 Tech Center Drive, Suite 235  
Colorado Springs, CO 80919  
(719) 593-2593

...

Construction Material Testing, Third Party Inspector (if needed) and Project Manager.

...

Dan Beltzer  
Rocksol Consulting Group  
12076 Grant St.  
Thornton, CO 80241  
beltzer@rocksol.com  
(303) 570-3699

...

Matt Tolsma  
12700 E. 168<sup>th</sup> Ave.  
Brighton, CO 80601  
(651) 587-8682  
mtolsma@myers-sons.com  
**PAGE 5**

Refer to Exhibit D – RFQ for CM/GC Services for Lovers Lane Creek Retaining Wall Replacement

...

Exhibit A Guaranteed Maximum Price Amendment  
Exhibit C – Attachment C – Fee Proposal Form  
Exhibit D – RFQ for CM/GC Services for Lovers Lane Creek Retaining Wall Replacement  
Exhibit E – Myers & Sons Construction, LLC Proposal  
Exhibit F – Myers & Sons Construction, LLC Article Fee Breakdown  
Exhibit G – PPRTA Funded Projects Special Provisions

**PAGE 7**

The Construction Manager shall establish a process, to be reviewed and approved by the Owner, to qualify a list of local subcontractors and, subject to applicable law, will use its best efforts to provide those subcontractors opportunities to bid on Work associated with the Project. As working drawings and specifications are completed, Construction Manager will establish bidding schedules and conduct pre-bid conferences to familiarize bidders with bidding documents, management techniques and any special systems, materials or methods. Construction Manager will prepare scope packages for each trade which clearly identify the bid scope, including general conditions items such as cleanup and safety. Construction Manager will review scope packages with the Owner and Architect prior to issuing same to subcontractors. 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. Construction manager will analyze all bids and prepare; (1) a bid matrix and scoring method, (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 most advantageous to the Owner, in Owner's sole

discretion. The Owner is not bound to accept the lowest-priced bid if that proposal is not in the best interests of Owner as determined by Owner.

PAGE 8

Collaboration with the Owner and Design Team; meeting attendance, including City Council meetings, community meetings; progress document reviews, estimating and pricing exercises in addition to milestone cost estimates; value analysis for cost-saving and value enhancements; competitively bidding all work and setting the guaranteed maximum price; establishing a detailed construction schedule identifying long lead items and critical path activities; instituting and managing the submittal process.

Refer to Exhibit F – Myers & Sons Construction, LLC Article Fee Breakdown

PAGE 9

§ 3.2.4.1 Under no circumstances is the contingency to be used by the Owner for increases in the scope, quality or quantity of the Work without prior approval from the Construction Manager; nor by the Construction Manager 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 Construction Manager; or similar Construction Manager's errors or omissions without approval from the Owner. The contingency is intended to cover minor design conflicts not reasonably inferable from the Contract Documents and construction conflicts in the field, as well as any bidding errors, as required to execute the scope outlined in this Agreement. It is not intended to cover and shall not cover scope changes made by the Owner, code or permit changes, Construction Manager self-performed work, General Conditions, contractor rework, defective work or warranty work, unforeseen conditions, cost increases caused by lack of coordination or communication with subcontractors, or to contract with subcontractors who should have been engaged during the bidding process to carry out the Work.

§ 3.2.4.2 Construction Manager's access to the contingency shall be approved in writing on a per instance basis by the Owner if it complies with the above requirements, such approval not to be unreasonably withheld. Prior to utilizing the contingency, Construction Manager shall provide Owner with detailed documentation of the Work affected and the basis for any increases in cost. Construction Manager shall provide Owner with written monthly updates on the status of the contingency.

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§ 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. The construction schedule shall be incorporated into the Guaranteed Maximum Price proposal and must show a reasonable critical path in adequate detail to track the detail of every critical and major element of the Project. The Construction Phase of the schedule must also incorporate the sequencing and interrelationship between each of the trades. Under no circumstance shall the Date of Final Completion be adjusted without an executed Change Order.

...

#### **§ 3.3.2.6 Project Scheduling and Reporting**

§ 3.3.2.6.1 Construction Manager shall carry out the Work in accordance with the Project Schedule which shall be incorporated into Exhibit A – Guaranteed Maximum Price Amendment so as to ensure Final Completion of the Project.

"Final Completion" of the Project under this Agreement shall mean 100% completion of each and every element of the Work in conformity with the Contract Documents. The term "Date of Final Completion" shall mean the date on which Final Completion is achieved as certified by the Architect.

§ 3.3.2.6.2 Construction Manager and Owner, as deemed necessary by the Owner, shall also hold monthly meetings at the Site (or at another location reasonably acceptable to Owner and Construction Manager) throughout construction of the Project to thoroughly discuss the progress of the Work, and such meetings shall be attended by Construction Manager's Representative, by Owner's Representative, and by such additional representatives of each party as they deem necessary or appropriate.

§ 3.3.2.6.3 Construction Manager shall prepare and submit, with each monthly application for payment, a schedule for the execution of the Work for Owner's review and response. The schedule shall contain detail appropriate for the Project, including (1) the effective date of the Contract, (2) key milestones for project submittals, (3) the date of commencement of the Work, (4) interim schedule milestone dates, (5) an apportionment of the Work by construction activity; and (6) 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 Project. The Owner may also request at intervals throughout the Project an updated schedule in the native file format.

§ 3.3.2.6.4 The Construction Manager shall also prepare a three- (3-) week look ahead schedule each week for review with the Owner, focusing on the in-depth detail of the upcoming weeks activities in a manner that reflects the planned day-to-day activities.

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~~§ 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.~~

PAGE 12

Refer to Exhibit F – Myers & Sons Construction, LLC Article Fee Breakdown

...

Refer to Exhibit F – Myers & Sons Construction, LLC Article Fee Breakdown

...

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

...

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

...

% statutory rate

PAGE 13

Refer to Exhibit F – Myers & Sons Construction, LLC Article Fee Breakdown

...

For additive changes to the Guaranteed Maximum Price as established in Exhibit F – Myers & Sons Construction, LLC Article Fee Breakdown, Hourly Rates and Contract Terms 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. For deductive changes to the Guaranteed Maximum Price as established in Exhibit F, 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

...

Change Order Markup: overhead and profit (fee) costs for any change shall not exceed a total of 10%, inclusive of materials suppliers, subcontractors, and CM/GC unless change is mutually agreed upon Owner and Construction Manager

§ 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.4 Not Applicable

...

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 fourteen (14) calendar days of the Contract Time is Five Hundred Dollars (\$500.00) per day, and Construction Manager 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.

...

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

...

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. The Guaranteed Maximum Price shall be determined when Design Development documents are 100% complete and approved by Owner and made part of this Agreement by written amendment hereto. Construction Manager does not guarantee any specific line item estimate provided within the Guaranteed Maximum Price with the right to reallocate, refer to 11.1.5.2.

PAGE 14

§ 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 an addition to the Guaranteed Maximum Price, Project Schedule, or the Construction Manager’s Fee unless and until such change has been approved and authorized by a Change Order executed and issued in accordance with the Contract Documents.

...

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7. as modified by Exhibit A – Guaranteed Maximum Price Amendment. Should there be a conflict between the terms describing the Cost of the Work and Exhibit A – Guaranteed Maximum Price Amendment, Exhibit A – Guaranteed Maximum Price Amendment shall prevail.

...

§ 7.1.4 Contractor's General Conditions Costs are defined as those costs that are itemized and identified in Exhibit A Guaranteed Maximum Price Amendment.

...

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.~~ administrative, but only for that portion of time required for the Work, regardless of where the personnel are stationed, at rates set forth in Exhibit F – Myers & Sons Construction, LLC Article Fee

PAGE 15

Refer to Exhibit F – Myers & Sons Construction, LLC Article Fee

§ 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.~~ Work, at rates set forth in Exhibit F – Myers & Sons Construction, LLC Article Fee.

PAGE 16

§ 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.

...

§ 7.6.9 ~~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.~~

PAGE 18

The Construction Manager shall, during the last week of each month, meet with the Architect, Owner's Representative and Owner, and/or 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 5th day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 5th day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than Thirty ( 30 ) days after the Architect receives the Application for Payment.

PAGE 19

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

Construction Manager may in its discretion reallocate any portion of the GMP among the various items in the schedule of values, including Contingency, and neither the Owner or Architect may deny payment to the Construction Manager on the basis that such payment would cause an item in the schedule of values to be exceeded.

PAGE 20

Five (5) %

...

TBD

...

If the Owner finds that satisfactory progress is being made in any phase of the contract, it may, upon written request by the contractor, authorize final payment from the withheld percentage to the contractor or subcontractors who have completed their work in a manner finally acceptable to the public entity. Before the payment is made, the public entity shall determine that satisfactory and substantial reasons exist for the payment and shall require written approval from any surety furnishing bonds for the contract work.

...

For any scopes of work remaining on the punch list

PAGE 21

- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment, for, along with final subcontractor conditional lien waivers; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.
- .4 The Architect has confirmed that all items identified on the punch list have been completed and has provided written approval/sign-off;
- .5 All as-built drawings and operations and maintenance manuals and warranties have been reviewed and approved by Architect and Owner Representative and have been delivered to the Owner;
- .6 Construction Manager has provided consent of surety; and
- .7 Notification of final settlement is advertised in 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 Colorado Revised Statute §38-26-107. The Owner shall withhold from all payments to Construction Manager sufficient funds to insure the payment of all claims filed by any person that has furnished labor, materials, sustenance, or other supplies used or consumed by Construction Manager or a subcontractor in or about the performance of the Work, or that supplies laborers, rental machinery, tools, or equipment to the extent used in the prosecution of the Work whose claim therefore has not been paid by Construction Manager or the subcontractor, all in accordance with the provisions of Colorado Revised Statute §38-26-107.

PAGE 22

% statutory

...

#### § 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.)

...

Litigation in a court of competent jurisdiction

...

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. In the event of arbitration or litigation between the Owner and Construction Manager over this Agreement or this Project, the prevailing party in any dispute shall be entitled to recover its legal fees and expenses, including expert fees (hereinafter "Fees"), and any other costs allowable by law. For purposes of this Agreement, the prevailing party shall be determined utilizing the following method: (a) the claiming party is the prevailing party if it is awarded 80% or more of its claimed damages exclusive of costs, interests, and Fees; (b) the defending party is the prevailing party if the claiming party is awarded 20% or less of its claimed damages exclusive of costs, interest and Fees; and (c) neither party is the prevailing party and each party shall bear its own Fees if the claiming party is awarded greater than 20%, but less than 80%, of its claimed damages exclusive of costs, interest and Fees. The trier of fact shall utilize this method to determine the prevailing party regardless of the number of claims alleged by either party. Fees shall not include, however, costs incurred in mediation nor any mediator's fees and expenses.

PAGE 24

Take the Cost of the Work (including retainage) incurred by the Construction Manager to the date of termination;

...

§ 14.3.1.1 Commercial General Liability with policy limits of not less than One million dollars (\$ 1,000,000.00 ) for each occurrence and two million dollars (\$ 2,000,000.00 ) in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than one million dollars (\$ 1,000,000.00 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

PAGE 25

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than five hundred thousand dollars (\$ 500,000.00 ) each accident, five hundred thousand dollars (\$ 500,000.00 ) each employee, and one million dollars (\$ 1,000,000.00 ) policy limit.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than one million dollars (\$ 1,000,000.00 ) per claim and two million dollars (\$ 2,000,000.00 ) in the aggregate.

...

**§ 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 and Owner's Representative 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 ~~14.3.1.14.3.1.~~, which certificates shall provide that such insurance shall not be canceled or changed without at least thirty (30) days prior written notice to the Owner.

...

~~§ 14.4~~ Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with a building information modeling exhibit, if completed, or as otherwise set forth below:  
*(If other than in accordance with a building information modeling exhibit, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)*

**§ 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 14.5.2 at:

Owner:

City of Manitou Springs  
606 Manitou Avenue  
Manitou Springs, CO 80829  
(719) 685-5481

And

Pikes Peak Rural Transit Authority (PPRTA)  
15 S 7<sup>th</sup> St.  
Colorado Springs  
CO 80905

Owner's Representative:  
Chavez Consulting Inc., LLC  
13880 Gymkhana Road,  
Peyton, CO 80831

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

Myers & Sons Construction, LLC  
45 Morrison Avenue  
Sacramento  
CA 95838

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

CM/GC Services for Lovers Lane Creek Retaining Wall Replacement

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User Notes:

(1918466394)

RFQ 2026-009

The Architect:

*(Name, legal status, address, and other information)*

Rocksol Consulting Group  
12076 Grant St.  
Thornton  
CO 80241

Any notices directed hereunder to Construction Manager may be served on its Project Manager, via correspondence in writing by e-mail, US Mail and/or hand delivery.

§ 14.5.2 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.

§ 14.5.3 The Contractor acknowledges and agrees that it must comply with the Immigration Control Act of 1986.

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

§ 14.5.5 Owner requested Alternates shall include adjustment for Fee based on dollar volume and General Conditions if and only if the Alternate substantively affects the schedule beyond the terms of this Agreement. Construction Managers Voluntary Alternates must include all related costs, including impacts to the design and Owner's other costs that may be a result of implementation.

§ 14.5.6 The Owner has retained Chavez Consulting as the Owners Representative. The Construction Manager shall fully cooperate with the Owner and the Owner's Representative.

§ 14.5.7 The Construction Manager shall:

§ 14.5.7.1 Prepare and update a look-ahead project schedule on a weekly basis until Substantial Completion and provide copies to the Owner, the Owner's Representative, and the Architect.

§ 14.5.7.2 Support value-engineering efforts to reduce costs and to identify reasonable equivalent materials and supplies.

§ 14.5.7.3 Participate in Project meetings conducted by the Architect or Owner's Representative and develop and distribute meeting minutes, as requested.

§ 14.5.8 Construction Manager will procure and maintain and cause its subcontractors to procure and maintain the insurance described in this document.

§ 14.5.9 The Construction Manager shall maintain an accurate set of as-built drawings at the site. At the completion of the Work, the Construction Manager shall certify by signing on them that each of the as-built drawings and specifications are complete and accurate. No later than thirty (30) days after Substantial Completion of Owner's Work and prior to application for Final Payment, and as a condition to its approval by the Architect and Owner, the Construction Manager shall transfer the job site as-built drawings, arranged in proper order, indexed and certified as accurate to the Architect for transmittal to the Owner. The Construction Manager will not be responsible for transferring to the as-built documents any addenda, clarifications or changes documented by the consultants.

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

The Construction Manager shall, within sixty (60) days after it is filed or claimed, have released (by bonding or otherwise) any mechanics', material man's or other lien filed or claimed against any or all of the Project, by reason of labor or materials provided for or about any or all of the Project. The Construction Manager shall defend, indemnify and hold the Owner harmless against and from any and all liability, claim of liability or expense (including but not limited to that of reasonable attorney's fees) incurred on account of any such lien or claim.

If the Construction Manager fails to pay such lien within sixty (60) days after it first becomes effective against the Project or known to the Construction Manager, whichever is later, then, in addition to any other right or remedy held by the Owner on account thereof, the Owner may (a) discharge it by paying the amount claimed to be due or by deposit or bonding proceedings and/or (b) in any such event, compel the prosecution of any action for the foreclosure of any such lien by the lienor and pay the amount of any judgment in favor of the lienor with interest, costs and allowances. The Construction Manager shall reimburse the Owner promptly upon the Owner's demand therefor for any amount paid by the Owner to discharge any such lien and all expenses incurred by the Owner in connection therewith, together with interest thereon at a rate equal to the statutory rate described in the Colorado Revised Statutes.

§ 14.5.11 Construction Manager and Owner acknowledge that they or their employees may, in the performance of the resultant Contract, come into the possession of proprietary or confidential information owned by or in the possession of the other. Neither party shall use any such information for its own benefit or make such information available to any person, firm, corporation, or other organization, regardless of whether directly or indirectly affiliated with Construction Manager or Owner, unless (i) required by law, including to comply with lawful request under the Colorado Open Records Act C.R.S. §§24-72-201, et seq., as amended, and other applicable laws, (ii) by order of any court or tribunal, (iii) such disclosure is necessary for the assertion of a right, or defense of an assertion of a right, by one party against the other party hereto, or (iv) such information has been acquired from other sources.

§ 14.5.12 Construction Manager agrees that it shall not publicize this Contract or disclose, confirm or deny any details thereof to third parties or use any photographs or video recordings of Owner's employees or use Owner's name in connection with any sales promotion or publicity event without the prior express written approval of Owner.

§ 14.5.13 Construction Manager agrees that at all times its employees will observe and comply with all regulations of the facilities, including but not limited to, no smoking, and parking and security regulations. Construction Manager shall also abide at all times by all applicable Owner policies and procedures, including without limitation those related to the prohibited use and/or possession of alcohol, tobacco or firearms on Owner's property. The Construction Manager shall at all times strictly enforce this prohibition among its own employees and its consultants and their employees.

§ 14.5.14 The Construction Manager shall include with every subcontract agreement the following language: "Subcontractor binds itself to Construction Manager and Owner and is obligated to Construction Manager and Owner in the same manner and to the same extent that Construction Manager is bound and obligated to Owner under the Prime Contract. All Rights which Owner may exercise and enforce against Construction Manager may be exercised and enforced by Owner against Subcontractor. In the event of any dispute between the Owner and Construction Manager, Subcontractor shall be bound by all decisions, directives, and interpretations and rulings of the Owner, including Owner's termination or suspension of Construction Manager."

§ 14.5.15 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, 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.

§ 14.5.16 Construction Manager is responsible only for construction of the Project according to the Contract Documents. Construction Manager is not a licensed design professional and has no professional qualifications in architecture, structural, mechanical, electrical, civil or acoustical engineering. Any value engineering recommendations or alternate material suggestions by Construction Manager are subject to prior approval and acceptance by Owner and Architect.

§ 14.5.17 Construction Manager assumes the project is constructed as recommended by the Soils Engineer employed by Owner to reduce the risk of damage from soil movement. Owner agrees to hold Construction Manager harmless from any claims for damages that may result from soil movement, as the design is not within Construction Manager's Scope of Work.

§ 14.5.18 It is the responsibility of the Owner to address all potential issues with adjoining property owners such as party lines, zero lot lines, site drainage, etc. before the commencement of construction. The Construction Manager specifically excludes costs resulting from issues with adjoining properties not caused by Construction Manager.

§ 14.5.19 The Parties acknowledge and agree that, due to current extraordinary circumstances and market demands, there is the potential for material cost increases and delays in deliveries of various construction materials. Because of the unpredictable nature of such material shortages, tariffs, price and schedule protection cannot be guaranteed for trades whose work includes these construction materials. The construction materials affected include, but are not limited to all steel-related products, all wood-related products, concrete, petroleum related products, etc. Unless noted otherwise, the Contractor has not included an escalation factor or contingency in the GMP or additional time in the schedule for these items. Contractor will use reasonable efforts to minimize any impacts, however, in the event the Cost of Work increases due to such material cost increase beyond Contractor's reasonable control, the Contract Sum shall be increased accordingly. In the event material (s) shortages impact the critical path schedule activities, Contractor is entitled to an extension of time and General Conditions, refer to 3.3.2.6.

§ 14.5.20 Due to partial funding by Pikes Peak Rural Transportation Authority, Construction Manager shall comply with and sign Exhibit G – PPRTA Funded Projects Special Provisions.

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.5Building Information Modeling Exhibit, if completed:

PAGE 29

[ ] AIA Document E234™ – 2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:

Exhibit A Guaranteed Maximum Price Amendment

Exhibit B – Bonds and Insurance

Exhibit C – Attachment C – Fee Proposal Form

Exhibit D – RFQ for CM/GC Services for Lovers Lane Creek Retaining Wall Replacement

Exhibit E – Myers & Sons Construction, LLC Proposal

Exhibit F – Myers & Sons Construction, LLC Article Fee Breakdown

(Insert the date of the E234 – 2019 incorporated into this Agreement.)

...

[ X ] Supplementary and other Conditions of the Contract:

...

Exhibit G

PPRTA Funded Projects  
Special Provisions

August 17,  
2016

2

...

CITY OF MANITOU SPRINGS

...

\_\_\_\_\_  
OWNER (Signature)

\_\_\_\_\_  
CONSTRUCTION MANAGER (Signature)

PAGE 30

\_\_\_\_\_  
*(Printed name and title)*

\_\_\_\_\_  
*(Printed name and title)*

PIKE PEAK RURAL TRANSIT AUTHORITY (PPRTA)

\_\_\_\_\_  
PPRTA (Signature)

\_\_\_\_\_  
*(Printed name and title)*

\_\_\_\_\_  
CONSTRUCTION MANAGER (Signature)

\_\_\_\_\_  
*(Printed name and title)*

STATE OF COLORADO )

\_\_\_\_\_  
) ss.

COUNTY OF )

The foregoing Agreement for General Services was subscribed, sworn to and acknowledged before me this \_\_\_\_\_  
day of \_\_\_\_\_, 2026 by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_.

My commission expires:

(S E A L)

\_\_\_\_\_  
Notary Public

CITY OF MANITOU SPRINGS

...

\_\_\_\_\_  
OWNER (Signature)

\_\_\_\_\_  
CONSTRUCTION MANAGER (Signature)

PAGE 30

\_\_\_\_\_  
(Printed name and title)

\_\_\_\_\_  
(Printed name and title)

PIKE PEAK RURAL TRANSIT AUTHORITY (PPRTA)

\_\_\_\_\_  
PPRTA (Signature)

\_\_\_\_\_  
(Printed name and title)

\_\_\_\_\_  
CONSTRUCTION MANAGER (Signature)

Kurtis Frailey, vice President  
(Printed name and title)

STATE OF COLORADO )

) ss.

COUNTY OF )

The foregoing Agreement for General Services was subscribed, sworn to and acknowledged before me this \_\_\_\_\_  
day of \_\_\_\_\_, 2026 by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_

My commission expires: (see attached)  
(SEAL)  
Notary Public

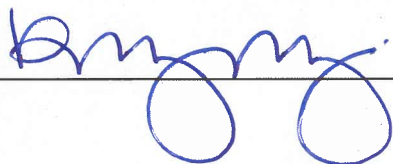
# CALIFORNIA NOTARIAL CERTIFICATE (JURAT)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Sacramento

Subscribed and sworn to (or affirmed) before me on this 8<sup>th</sup> day of June,  
2020, by Kurtis Frailey, proved to me on the basis of satisfactory  
evidence to be the person(s) who appeared before me.

Signature



(Seal)



## Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, \_\_\_\_\_, 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 16:57:29 ET on 06/08/2026 under Order No. 500051701\_1 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)

*Kurtis Frailey, vice president*  
\_\_\_\_\_  
(Title)

*06-08-2026*  
\_\_\_\_\_  
(Dated)

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Sacramento )

On June 8, 2024 before me, Bryn Maguire, Notary Public  
(insert name and title of the officer)

personally appeared Kurtis Frailey,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
6/1/2026

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).**

<b>PRODUCER</b> Alliant Insurance Services, Inc. 333 S Hope St Ste 3750 Los Angeles CA 90071  License#: 0C36861	<b>CONTACT NAME:</b> Lenessa Weatherford <b>PHONE (A/C, No, Ext):</b> _____ <b>FAX (A/C, No):</b> _____ <b>E-MAIL ADDRESS:</b> Lenessa.Weatherford@alliant.com													
	<table border="1"> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A : Safety National Casualty Corpo</td> <td>15105</td> </tr> <tr> <td>INSURER B :</td> <td></td> </tr> <tr> <td>INSURER C :</td> <td></td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Safety National Casualty Corpo	15105	INSURER B :		INSURER C :		INSURER D :		INSURER E :		INSURER F :
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INSURER B :														
INSURER C :														
INSURER D :														
INSURER E :														
INSURER F :														
<b>INSURED</b> Myers & Sons Construction, LLC 45 Morrison Ave. Sacramento, CA 95838														


**COVERAGES** **CERTIFICATE NUMBER: 287785727** **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.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER: _____			GLA4064685	7/1/2025	7/1/2026	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 Deductible \$ 250,000
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED _____ RETENTION \$ _____						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	LDC4064684	7/1/2025	7/1/2026	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**  
Re: Myers Job #0529; Project: CM/GC Services for Lovers Lane Creek Retaining Wall Replacement

The City of Manitou Springs (City), its officers, employees, and agents and Pikes Peak Rural Transportation Authority (PPRTA) are named as Additional Insured as respects to General Liability arising out of work performed by the Named Insured. The insurance provided shall be primary and other insurance maintained by the Additional Insured is excess and non-contributory as respects to General Liability. Waiver of Subrogation applies to General Liability and Workers Compensation as required by contract. Thirty (30) Days Notice of Cancellation / Non-Renewal - Ten (10) Days Notice For Non-Payment of Premium with respect to General Liability and Workers Compensation.

<b>CERTIFICATE HOLDER</b>  City of Manitou Springs 606 Manitou Avenue Manitou Springs CO 80829	<b>CANCELLATION</b>  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 
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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### **SCHEDULE**

<b>Name Of Additional Insured Person(s) Or Organization(s):</b>	<b>Location And Description Of Completed Operations</b>
Any person or organization as required by written contract or agreement that is executed prior to the loss.	All of your projects.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS – SCHEDULED PERSON OR  
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
Any person or organization as required by written contract or agreement that is executed prior to the loss.	All of your projects
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

### **Primary And Noncontributory Insurance**

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(1) The additional insured is a Named Insured under such other insurance; and

(2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

# **WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)**

This endorsement modifies insurance provided under the following:

- COMMERCIAL GENERAL LIABILITY COVERAGE PART
- ELECTRONIC DATA LIABILITY COVERAGE PART
- LIQUOR LIABILITY COVERAGE PART
- POLLUTION LIABILITY COVERAGE PART DESIGNATED SITES
- POLLUTION LIABILITY LIMITED COVERAGE PART DESIGNATED SITES
- PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
- RAILROAD PROTECTIVE LIABILITY COVERAGE PART
- UNDERGROUND STORAGE TANK POLICY DESIGNATED TANKS

### **SCHEDULE**

**Name Of Person(s) Or Organization(s):**

Any Person or Organization as required by written contract or agreement that is executed prior to the loss.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us of Section IV – Conditions:**

We waive any right of recovery against the person(s) or organization(s) shown in the Schedule above because of payments we make under this Coverage Part. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person(s) or organization(s) prior to loss. This endorsement applies only to the person(s) or organization(s) shown in the Schedule above.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **SPECIAL NOTICE OF CANCELLATION SERVICE PROVIDED TO IDENTIFIED THIRD PARTIES**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### **CHANGE**

The following new provision is added to **A. Cancellation** of the **COMMON POLICY CONDITIONS** or such other applicable state cancellation endorsement:

As a special service to you, if we cancel this policy for any reason other than non-payment of premium, within thirty (30) days prior to the effective date of cancellation, we will mail a copy of such written notice of cancellation to all third persons whose name and address have, during the applicable policy period, been placed on file with us through your broker of record due to third party contractual requirements relating to such notice.

As a special service to you, if we cancel this policy for non-payment of premium, within ten (10) days prior to the effective date of cancellation, we will mail a copy of such written notice of cancellation to all third persons whose name and address have, during the applicable policy period, been placed on file with us through your broker of record due to third party contractual requirements relating to such notice.

If we have been provided with an electronic address of such third parties, at our election we may send notice of cancellation to such third parties by electronic mail.

Notice of cancellation of coverage provided to a certificate holder is a courtesy only. Failure to provide such notice will not extend the policy cancellation date, negate the cancellation of the policy, nor confer any rights nor expectations upon the certificate holder nor subject us, our agents nor representatives to liability for failure to provide notice.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.  
**(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)**

Endorsement Effective 04/26/2024

Policy No. GLA4064685

Endorsement No.

Named Insured MYERS & SONS CONSTRUCTION, LLC

Premium \$ Included

Insurance Company Safety National Casualty Corporation

Countersigned By \_\_\_\_\_  
(Countersignature by the Broker or Agent shall only occur  
in the mailing states that require countersignature)

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **DESIGNATED ADDITIONAL INSURED**

This endorsement modifies insurance provided under the following:

COMMERCIAL AUTOMOBILE COVERAGE PART

### **SCHEDULE**

<b>Name of Additional Insured Person(s) or Organization(s):</b>
Any person or organization as required by written contract or agreement that is executed prior to the loss.

### **CHANGE**

The person(s) or organization(s) shown in the Schedule above with whom you have agreed in a written contract to provide insurance such as is afforded under this Coverage Form, is included as an Additional Insured subject to the below:

- (1)** Insurance for such Additional Insured(s) scheduled above shall be afforded only to the extent that such Additional Insured is liable for "bodily injury" or "property damage" arising out of your operations and resulting from the ownership, maintenance or use of covered "autos" by you while the covered "autos" are on premises owned or leased by the above scheduled Additional Insured(s).
- (2)** The insurance afforded under this Coverage Form to such Additional Insured(s) applies only:
  - (a)** If the "accident" takes place subsequent to the execution and effective date of such written contract:  
and,
  - (b)** While such written contract is in force, or until the end of the policy period, which ever occurs first.
- (3) How Limits Apply to Additional Insured(s)**

The most we will pay on behalf of the Additional Insured(s) scheduled above is the lesser of:

  - (a)** The limits of insurance specified in the written contract or written agreement; or,
  - (b)** The Limits of Insurance provided by the Coverage Form.

The amount we will pay on behalf of such Additional Insured(s) shall be a part of, and not in addition to, the Limits of Insurance shown in the Coverage Form Declarations and described in this section. Such amount will thus not increase the Limits of Insurance shown for the Coverage Form.

**(4) Exclusions**

- (a) This endorsement does not apply to liability of the Additional Insured which arises out of the ownership of transportation operating rights granted to the Additional Insured by public authority.
- (b) This endorsement does not apply to the liability of the owner or anyone else from whom you hire or borrow a covered auto.

**(5) Obligations at the Additional Insured's Own Cost**

No Additional Insured will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

The Additional Insured(s) scheduled above shall be subject to all other conditions set forth in the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.  
**(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)**

Endorsement Effective 07/01/2025      Policy No. CA 6675911      Endorsement No.  
Named Insured MYERS & SONS CONSTRUCTION, LP      Premium \$ Included  
Insurance Company Safety National Casualty Corporation

Countersigned By \_\_\_\_\_

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY  
AGAINST OTHERS TO US**

This endorsement modifies insurance provided under the following:

COMMERCIAL AUTOMOBILE COVERAGE PART

**SCHEDULE**

**Name Of Person Or Organization:**

Person(s) or Organization(s) as required by written contract when such written contract is executed prior to an accident to which this endorsement applies

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**CHANGE**

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for "bodily injury" or "property damage" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of a covered "auto". This waiver applies only to the person or organization shown in the Schedule above.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.  
**(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)**

Endorsement Effective 07/01/2025 Policy No. CA 6675911 Endorsement No.

Named Insured MYERS & SONS CONSTRUCTION, LP Premium \$ Included

Insurance Company Safety National Casualty Corporation

Countersigned By \_\_\_\_\_

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM  
BUSINESS AUTO COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

**A.** The following is added to the **Other Insurance Condition** in the Business Auto Coverage Form and the **Other Insurance – Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage is primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

**B.** The following is added to the **Other Insurance Condition** in the Auto Dealers Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage and General Liability Coverages are primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **SPECIAL NOTICE OF CANCELLATION SERVICE PROVIDED TO IDENTIFIED THIRD PARTIES**

This endorsement modifies insurance provided under the following:

COMMERCIAL AUTOMOBILE COVERAGE PART

### **CHANGE**

The following new provision is added to **A. Cancellation** of the **COMMON POLICY CONDITIONS** or such other applicable state cancellation endorsement:

As a special service to you, if we cancel this policy for any reason other than non-payment of premium, within thirty (30) days prior to the effective date of cancellation, we will mail a copy of such written notice of cancellation to all third persons whose name and address have, during the applicable policy period, been placed on file with us through your broker of record due to third party contractual requirements relating to such notice.

As a special service to you, if we cancel this policy for non-payment of premium, within ten (10) days prior to the effective date of cancellation, we will mail a copy of such written notice of cancellation to all third persons whose name and address have, during the applicable policy period, been placed on file with us through your broker of record due to third party contractual requirements relating to such notice.

If we have been provided with an electronic address of such third parties, at our election we may send notice of cancellation to such third parties by electronic mail.

Notice of cancellation of coverage provided to a certificate holder is a courtesy only. Failure to provide such notice will not extend the policy cancellation date, negate the cancellation of the policy, nor confer any rights nor expectations upon the certificate holder nor subject us, our agents nor representatives to liability for failure to provide notice.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.  
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 07/01/2025 Policy No. CA 6675911 Endorsement No.  
Named Insured MYERS & SONS CONSTRUCTION, LLC Premium \$ Included  
Insurance Company Safety National Casualty Corporation

Countersigned By \_\_\_\_\_  
(Countersignature by the Broker or Agent shall only occur  
in the mailing states that require countersignature)

### WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

#### SCHEDULE

WHERE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT THAT IS EXECUTED PRIOR TO THE LOSS.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.  
**(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)**

Endorsement Effective 07/01/2025

Policy No. LDC4064684

Endorsement No.

Insured MYERS & SONS CONSTRUCTION, LLC

Premium \$ Included

Insurance Company Safety National Casualty Corporation

Countersigned By \_\_\_\_\_

**SPECIAL NOTICE OF CANCELLATION SERVICE  
PROVIDED TO IDENTIFIED THIRD PARTIES ENDORSEMENT**

As a special service to you, if we cancel this policy for any reason other than non-payment of premium, within thirty (30) days prior to the effective date of cancellation, we will mail a copy of such written notice of cancellation to all third persons whose name and address have, during the applicable policy period, been placed on file with us through your broker of record due to third party contractual requirements relating to such notice.

As a special service to you, if we cancel this policy for non-payment of premium, within ten (10) days prior to the effective date of cancellation, we will mail a copy of such written notice of cancellation to all third persons whose name and address have, during the applicable policy period, been placed on file with us through your broker of record due to third party contractual requirements relating to such notice.

If we have been provided with an electronic address of such third parties, at our election we may send notice of cancellation to such third parties by electronic mail.

Notice of cancellation of coverage provided to a certificate holder is a courtesy only. Failure to provide such notice will not extend the policy cancellation date, negate the cancellation of the policy, nor confer any rights nor expectations upon the certificate holder nor subject us, our agents nor representatives to liability for failure to provide notice.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.  
**(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)**

Endorsement Effective 07/01/2025

Policy No. LDC4064684

Endorsement No.

Insured MYERS & SONS CONSTRUCTION, LLC

Premium \$ Included

Insurance Company Safety National Casualty Corporation

Countersigned By \_\_\_\_\_

Bond 7901296872

# Document A312™ – 2010

Conforms with The American Institute of Architects AIA Document 312

## Payment Bond

### CONTRACTOR:

*(Name, legal status and address)*

Myers & Sons Construction, LLC

45 Morrison Ave  
Sacramento, CA 95838

### OWNER:

*(Name, legal status and address)*

City of Manitou Springs  
606 Manitou Avenue  
Manitou Springs, CO 80829

### SURETY:

*(Name, legal status and principal place of business)*

Nationwide Mutual Insurance Company  
One West Nationwide Blvd., FSSC-RR,  
Columbus, OH 43215-2220

### Mailing Address for Notices

One West Nationwide Blvd.,  
FSSC-RR, Columbus, OH 43215-2220

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

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

### CONSTRUCTION CONTRACT

Date: May 29, 2026

Amount: \$ 92,000.00

Ninety-two Thousand & 00/100

### Description:

*(Name and location)*

CM/GC Services for Lovers Lane Creek Retaining Wall Replacement

### BOND

Date: June 1, 2026

*(Not earlier than Construction Contract Date)*

Amount: \$46,000.00

Forty-six Thousand & 00/100

Modifications to this Bond:

None

See Section 18

### CONTRACTOR AS PRINCIPAL

Company:

*(Corporate Seal)*

Myers & Sons Construction, LLC

Signature: \_\_\_\_\_

Name Clinton W. Myers  
and Title: President

### SURETY

Company:

*(Corporate Seal)*

Nationwide Mutual Insurance Company

Signature: \_\_\_\_\_

Name Autumn Stockton  
and Title: Attorney-in-Fact



*(Any additional signatures appear on the last page of this Payment Bond.)*

*(FOR INFORMATION ONLY — Name, address and telephone)*

### AGENT or BROKER:

Alliant Insurance Services, Inc.  
16000 North Dallas Parkway, Suite 850  
Dallas, TX 75248

### OWNER'S REPRESENTATIVE:

*(Architect, Engineer or other party:)*

# ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Sacramento )

On June 3, 2020 before me, Bryn Maguire, Notary Public  
(insert name and title of the officer)

personally appeared Clinton W. Myers  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)



§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

**§ 10** The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

**§ 11** The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

**§ 12** No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

**§ 13** Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

**§ 14** When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

**§ 15** Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

**§ 16 Definitions**

**§ 16.1 Claim.** A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

**§ 16.2 Claimant.** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

**§ 16.3 Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

§ 16.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 18 Modifications to this bond are as follows:

*(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)*

**CONTRACTOR AS PRINCIPAL**

Company: \_\_\_\_\_ *(Corporate Seal)*

**SURETY**

Company: \_\_\_\_\_ *(Corporate Seal)*

Signature: \_\_\_\_\_  
Name and Title:  
Address

Signature: \_\_\_\_\_  
Name and Title:  
Address  
Attorney-in-Fact

Power of Attorney

KNOW ALL MEN BY THESE PRESENTS THAT:

Nationwide Mutual Insurance Company, an Ohio corporation

hereinafter referred to severally as the "Company" and collectively as "the Companies" does hereby make, constitute and appoint: AUTUMN STOCKTON; DIANA CERVANTES; S NICOLE EVANS; STEPHANIE GUNDERSON

each in their individual capacity, its true and lawful attorney-in-fact, with full power and authority to sign, seal, and execute on its behalf on the date thereof any and all: (i) bonds and undertakings; (ii) Proposal Bonds; (ii) Letters of Surety; (iv) Consent of Surety; and (v) other obligatory instruments of similar nature, in penalties not exceeding the sum of

UNLIMITED

and to bind the Company thereby, as fully and to the same extent as if such instruments were signed by the duly authorized officers of the Company; and all acts of said Attorney pursuant to the authority given are hereby ratified and confirmed.

This power of attorney is made and executed pursuant to and by authority of the following resolution duly adopted by the board of directors of the Company:

"RESOLVED, that the president, or any vice president be, and each hereby is, authorized and empowered to appoint attorneys-in-fact of the Company, and to authorize them to execute and deliver on behalf of the Company any and all bonds, forms, applications, memorandums, undertakings, recognizances, transfers, contracts of indemnity, policies, contracts guaranteeing the fidelity of persons holding positions of public or private trust, and other writings obligatory in nature that the business of the Company may require; and to modify or revoke, with or without cause, any such appointment or authority; provided, however, that the authority granted hereby shall in no way limit the authority of other duly authorized agents to sign and countersign any of said documents on behalf of the Company."

"RESOLVED FURTHER, that such attorneys-in-fact shall have full power and authority to execute and deliver any and all such documents and to bind the Company subject to the terms and limitations of the power of attorney issued to them, and to affix the seal of the Company thereto; provided, however, that said seal shall not be necessary for the validity of any such documents."

This power of attorney is signed and sealed under and by the following bylaws duly adopted by the board of directors of the Company.

Execution of Instruments. Any vice president, any assistant secretary or any assistant treasurer shall have the power and authority to sign or attest all approved documents, instruments, contracts, or other papers in connection with the operation of the business of the company in addition to the chairman of the board, the chief executive officer, president, treasurer or secretary; provided, however, the signature of any of them may be printed, engraved, or stamped on any approved document, contract, instrument, or other papers of the Company.

IN WITNESS WHEREOF, the Company has caused this instrument to be sealed and duly attested by the signature of its officer the 23rd day of October, 2025.

[Handwritten signature of Antonio C. Albanese]

Antonio C. Albanese, Vice President of Nationwide Mutual Insurance Company

ACKNOWLEDGMENT

STATE OF OHIO COUNTY OF FRANKLIN: ss

On this 23rd day of October, 2025, before me came the above-named officer for the Company aforesaid, to me personally known to be the officer described in and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, deposes and says, that he is the officer of the Company aforesaid, that the seal affixed hereto is the corporate seal of said Company, and the said corporate seal and his signature were duly affixed and subscribed to said instrument by the authority and direction of said Company.

Karen L. Karn
Notary Public, State of Ohio
No. 2018-RE-719796
Commission Expires July 7, 2028

[Handwritten signature of Karen L. Karn]
Notary Public
My Commission Expires
July 7, 2028

CERTIFICATE

I, Lezlie F. Chimienti, Assistant Secretary of the Company, do hereby certify that the foregoing is a full, true and correct copy of the original power of attorney issued by the Company; that the resolution included therein is a true and correct transcript from the minutes of the meetings of the boards of directors and the same has not been revoked or amended in any manner; that said Antonio C. Albanese was on the date of the execution of the foregoing power of attorney the duly elected officer of the Company, and the corporate seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority of said board of directors; and the foregoing power of attorney is still in full force and effect.

IN WITNESS WHEREOF, I have hereunto subscribed my name as Assistant Secretary, and affixed the corporate seal of said Company this 1st day of June 2026

[Handwritten signature of Lezlie F. Chimienti]

Assistant Secretary

Bond No. 7901296872

# Document A312™ – 2010

Conforms with The American Institute of Architects AIA Document 312

## Performance Bond

### CONTRACTOR:

(Name, legal status and address)

Myers & Sons Construction, LLC

45 Morrison Ave

Sacramento, CA 95838

### OWNER:

(Name, legal status and address)

City of Manitou Springs

606 Manitou Avenue

Manitou Springs, CO 80829

### SURETY:

(Name, legal status and principal place of business)

Nationwide Mutual Insurance Company

One West Nationwide Blvd., FSSC-RR,  
Columbus, OH 43215-2220

### Mailing Address for Notices

One West Nationwide Blvd.,  
FSSC-RR, Columbus, OH 43215-2220

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

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

### CONSTRUCTION CONTRACT

Date: May 29, 2026

Amount: \$ 92,000.00

Ninety-two Thousand & 00/100

### Description:

(Name and location)

CM/GC Services for Lovers Lane Creek Retaining Wall Replacement

### BOND

Date: June 1, 2026

(Not earlier than Construction Contract Date)

Amount: \$ 92,000.00

Ninety-two Thousand & 00/100

Modifications to this Bond:

None

Sec Section 16

### CONTRACTOR AS PRINCIPAL

Company:

(Corporate Seal)

Myers & Sons Construction, LLC

Signature:

Name Clinton W. Myers  
and Title: President

### SURETY

Company:

(Corporate Seal)

Nationwide Mutual Insurance Company

Signature:

Name Autumn Stockton  
and Title: Attorney-in-Fact

(Any additional signatures appear on the last page of this Performance Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

### AGENT or BROKER:

Alliant Insurance Services, Inc.  
16000 North Dallas Parkway, Suite 850  
Dallas, TX 75248

### OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Sacramento )

On June 3, 2020 before me, Bryn Maguire, Notary Public  
(insert name and title of the officer)

personally appeared Clinton W. Myers,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



**§ 1** The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

**§ 2** If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

**§ 3** If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

**§ 4** Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

**§ 5** When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

**§ 5.1** Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

**§ 5.2** Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

**§ 5.3** Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

**§ 5.4** Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

**§ 6** If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

#### § 14 Definitions

§ 14.1 **Balance of the Contract Price.** The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 **Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 **Contractor Default.** Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

**§ 16 Modifications to this bond are as follows:**

*(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)*

**CONTRACTOR AS PRINCIPAL**

Company: \_\_\_\_\_ *(Corporate Seal)*

**SURETY**

Company: \_\_\_\_\_ *(Corporate Seal)*

Signature: \_\_\_\_\_  
Name and Title: \_\_\_\_\_  
Address \_\_\_\_\_

Signature: \_\_\_\_\_  
Name and Title: \_\_\_\_\_  
Address \_\_\_\_\_  
Attorney-in-Fact



## Memorandum

Title: Proclamation No. 0826, A Proclamation Recognizing June 19, 2026, as Juneteenth

From: City Clerk's Office

To: Mayor and City Council

CC: City Administrator Denise Howell

Allocated Time: 5 Minutes

---

June 16, 2026

### **Purpose:**

To present a proclamation recognizing Juneteenth and affirming the City of Manitou Springs' acknowledgment of its historical significance.

### **Background:**

Juneteenth commemorates the emancipation of enslaved African Americans in the United States and is recognized annually on June 19. The holiday marks the date in 1865 when news of emancipation reached enslaved individuals in Galveston, Texas, more than two years after the issuance of the Emancipation Proclamation.

Juneteenth has grown in recognition nationwide as a time to honor freedom, reflect on the nation's history, and celebrate African American culture and contributions. This proclamation reflects the City's commitment to recognizing this important part of American history and encourages residents to engage in learning, reflection, and community connection.

### **Fiscal Impact:**

None.

### **Workload Impact:**

Minimal.

### **Recommended Action:**

Read Proclamation No. 0826, recognizing June 19, 2026, as Juneteenth and proclaim it so.



## *Proclamation No. 0826*

### **Recognizing June 19, 2026 as Juneteenth**

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**Whereas**, the date of June 19 is known as “Juneteenth,” and it is the oldest nationally celebrated commemoration of the ending of slavery in the United States; and

**Whereas**, even though President Lincoln announced the Emancipation Proclamation in 1863, as a practical matter it was not until the Civil War concluded that enslaved people were free. The Juneteenth commemoration specifically refers to June 19, 1865, when Union troops brought the news of freedom to enslaved African Americans in Galveston, Texas; and

**Whereas**, Juneteenth commemorates freedom from slavery in America, emphasizes education and achievement, and is a day for reflection and rejoicing for all Americans; and

**Whereas**, we wish to acknowledge the historical significance of the day and recommit the community to working toward the dismantling of institutionalized racism and prejudice; and

**Whereas**, the celebration of Juneteenth is inclusive of all races, ethnicities, religions and nationalities, and citizens across our country may join hands in acknowledging a critical benchmark in our history.

**NOW, THEREFORE, BE IT PROCLAIMED** that we, the City Council of the City of Manitou Springs, do hereby declare June 19 as Juneteenth in the City of Manitou Springs and encourage our citizens to actively embrace the ideals of liberty and justice for all and to practice principles of tolerance and the acceptance of others.

**ADOPTED ON THIS DAY, JUNE 16, 2026**

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Natalie Johnson, Mayor

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Attest: Elena Krebs, City Clerk



## Memorandum

Title: Proclamation No. 0926, A Proclamation to Recognize June as Pride Month

From: City Clerk's Office

To: Mayor and City Council

CC: City Administrator Denise Howell

Allocated Time: 5 Minutes

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June 16, 2026

### **Purpose:**

To present a proclamation recognizing June as Pride Month in the City of Manitou Springs. The proclamation affirms the City's commitment to fostering an inclusive, welcoming, and respectful community for all residents, including those who identify as lesbian, gay, bisexual, transgender, and queer (LGBTQ+), and encourages community awareness and celebration.

### **Background:**

Pride Month is observed each June to honor the history, contributions, and ongoing efforts of the LGBTQ+ community, as well as to commemorate the advancement of civil rights and equality. Communities across the country recognize Pride Month as an opportunity to celebrate diversity, promote inclusion, and reflect on the importance of ensuring that all individuals are treated with dignity and respect.

This proclamation reflects the City of Manitou Springs' continued commitment to equity and inclusion and recognizes the value of creating a community where all individuals feel safe, respected and supported.

### **Fiscal Impact:**

None.

### **Workload Impact:**

Minimal.

### **Recommended Action:**

Read Proclamation No. 0926, recognizing June as Pride Month and proclaim it so.



## *Proclamation No. 0926*

### **To Recognize June as Pride Month**

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**Whereas**, the Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, and Asexual communities of Manitou Springs are an integral part of the vibrant culture and climate of Manitou Springs; and

**Whereas**, the diverse LGBTQIA community continues to contribute to the economic, artistic, and social spheres within and around our greater community; and

**Whereas**, the month of June was designated as Pride Month to commemorate the Stonewall Riots which occurred in June 1969 and are generally recognized as the catalyst of the LGBTQ rights movement; and

**Whereas**, the City of Manitou Springs remains committed to protecting the civil rights of lesbian, gay, bisexual, transgender, queer, intersex, and asexual communities in our unified effort to forge a more open and just society; and

**Whereas**, Manitou Springs LGBTQIA communities make an indelible impact upon the quality of life in Manitou Springs, and Pride Month serves as a call to our collective consciousness to persist in the fight to eradicate prejudice and discrimination everywhere; and

**Whereas**, we encourage everyone to engage in activities that support and promote the LGBTQIA community.

**NOW, THEREFORE, BE IT PROCLAIMED** that the City Council of Manitou Springs does proclaim June 2026 to be Pride Month in Manitou Springs and encourage all Manitoids to recognize the ongoing efforts and ongoing contributions of Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, and Asexual communities within our city and our country.

**ADOPTED ON THIS DAY, JUNE 16, 2026**

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Natalie Johnson, Mayor

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Attest: Elena Krebs, City Clerk



## Memorandum

Title: Proclamation No. 0726, A Proclamation Recognizing June 2026 as National Pollinator Month and June 22-28, 2026, as Pollinator Week

From: City Clerk's Office

To: Mayor and City Council

CC: City Administrator Denise Howell

Allocated Time: 5 Minutes

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June 16, 2026

### **Purpose:**

The purpose of this item is to present a proclamation recognizing the importance of pollinators and declaring June as national pollinator month and June 22<sup>nd</sup> through June 28<sup>th</sup> as pollinator week.

### **Background:**

Pollinators are essential to the reproduction of many plants and the production of a significant portion of the world's food supply. In recent years, pollinator populations have faced increasing challenges due to habitat loss, climate change, pesticide use, and other environmental pressures.

Communities across the country recognize Pollinator Week/Month as an opportunity to raise awareness about these challenges and promote actions that support pollinator health. These actions may include planting native vegetation, reducing pesticide use, and creating pollinator-friendly spaces in both public and private areas.

This proclamation aligns with these efforts by formally recognizing the importance of pollinators and encouraging residents and businesses to take simple, meaningful steps to help protect and sustain these vital species.

### **Fiscal Impact:**

None.

### **Workload Impact:**

Minimal.

### **Recommended Action:**

Read Proclamation No. 0726, recognizing June 2026 as national pollinator month and June 22–28, 2026, as pollinator week and proclaim it so.





## *Proclamation No. 0726*

### **Recognizing June 2026 as National Pollinator Month and June 22-28, 2026, as Pollinator Week**

---

**Whereas**, pollinators including bees, birds, bats, butterflies, and insects are critical to our global food supply and economic stability; and

**Whereas**, three-quarters of all food crops globally depend on pollinators to ensure dietary diversity, crop yields, and economic stability while supporting the reproduction and growth of 87 of the 115 leading food crops in the world; and

**Whereas**, pollinators play a vital role in the health of our national forests and grasslands that provide forage, fish, wildlife habitat, timber, water, mineral resources, as well as recreational and economic opportunities for communities; and

**Whereas**, pollinators provide essential ecosystem services by sustaining the diversity of our native flowering plants and forming the foundation of biodiversity across our landscapes; and

**Whereas**, the state of Colorado provides agricultural producers with conservation assistance to promote habitat creation, including the protection and restoration of pollinator habitats on working lands and wildlands; and

**Whereas**, in June 2023, Manitou Springs became the first certified Municipal Pollinator District in the world, showcasing the community's unwavering commitment to protecting and preserving vital pollinators; and

**Whereas**, we encourage all citizens to engage in activities that help protect and sustain pollinators including planting native, nectar-rich plants that provide continuous blooms, avoiding toxic insecticides and herbicides, leaving wild spaces for pollinator habitat and migration, and supporting Manitou Springs numerous pollinator gardens.

**NOW, THEREFORE, BE IT PROCLAIMED** that the Mayor and City Council of Manitou Springs do hereby proclaim the month of June as National Pollinator Month, and June 22-28, 2026, as Pollinator week and encourage citizens to participate in activities planned throughout the city to support pollinators.

**ADOPTED ON THIS DAY, JUNE 16, 2026**

---

Natalie Johnson, Mayor

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Attest: Elena Krebs, City Clerk



## Memorandum

Title: Visit Manitou Springs Q2 2026 Update  
From: Jenna Wells, Visit Manitou Springs Executive Director  
To: Mayor and City Council  
CC: City Administrator Denise Howell  
Allocated Time: 30 Minutes

---

June 16, 2026

### **Purpose:**

To provide City Council with an overview of Visit Manitou Springs' marketing efforts and accomplishments during the second quarter of 2026.

### **Background:**

Visit Manitou Springs continues efforts on promoting Manitou Springs as a destination, supporting local businesses, and encouraging responsible tourism through campaigns such as "Do Manitou Springs Right," which aligns with the statewide "Do Colorado Right" initiative focused on stewardship, safety, and education for visitors.

Key data points include increasing visitor center activity, regional tourism growth, and the continued role of marketing in influencing visitation patterns.

### **Fiscal Impact:**

N/A

### **Workload Impact:**

N/A

### **Recommended Action:**

This is for informational purposes only.



# Visit Manitou Springs

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PRESENTATION BY:

JENNA WELLS, EXEC DIRECTOR

# What are we up to Q2 2026?

## Marketing:

- Marketing Coordinator vacancy
- All print complete thru Fall
- Rag Tag Studio (1 video completion, 2 additional filming in June 2026)
- You Tube - Videos up, Subscribe!
- Google Analytics

### Top 3 Searches:

“Attractions” “Manitou” “Visitor Center”

### Top 4 Pages - Incline, Homepage

Min Spgs, Lodging

## Social Media Stats:

- 2024 - 15, 511 visitors
  - 2025 - 17,937 visitors
  - Jan-May 2026 -5,439
- 1,048 YTD INCREASE**

## Business & Partnerships:

- 10 New Members YTD
- Crisis Communication Workshops
- Do Manitou Springs Right Launched
- EarthCam installation at Spa Bldg
- Tourism Economics Updates (Fall)
- Hwy 24 Gateway Sign - Upcoming
- Chat w/Chamber 6/17/26 at 5 pm, Townhouse - all are welcome!

### Visitor Center Stats:

- 2024 - 15, 511 visitors
  - 2025 - 17,937 visitors
  - Jan-May 2026 -5,439
- 1,048 YTD INCREASE**



## 5 Annual Visit Manitou Springs Events:

- 31<sup>st</sup> Fruitcake Toss - Food Pantry donations, ~300 attendees
- 32<sup>nd</sup> Gumbo Cook-Off - ~4,200 samples, ~500 attendees
- 1<sup>st</sup> Legends & Libations a success. Will return in 2027
- 23<sup>rd</sup> Wine Fest on 6/6, local vendors, volunteers, 1,382 attendees in 2026

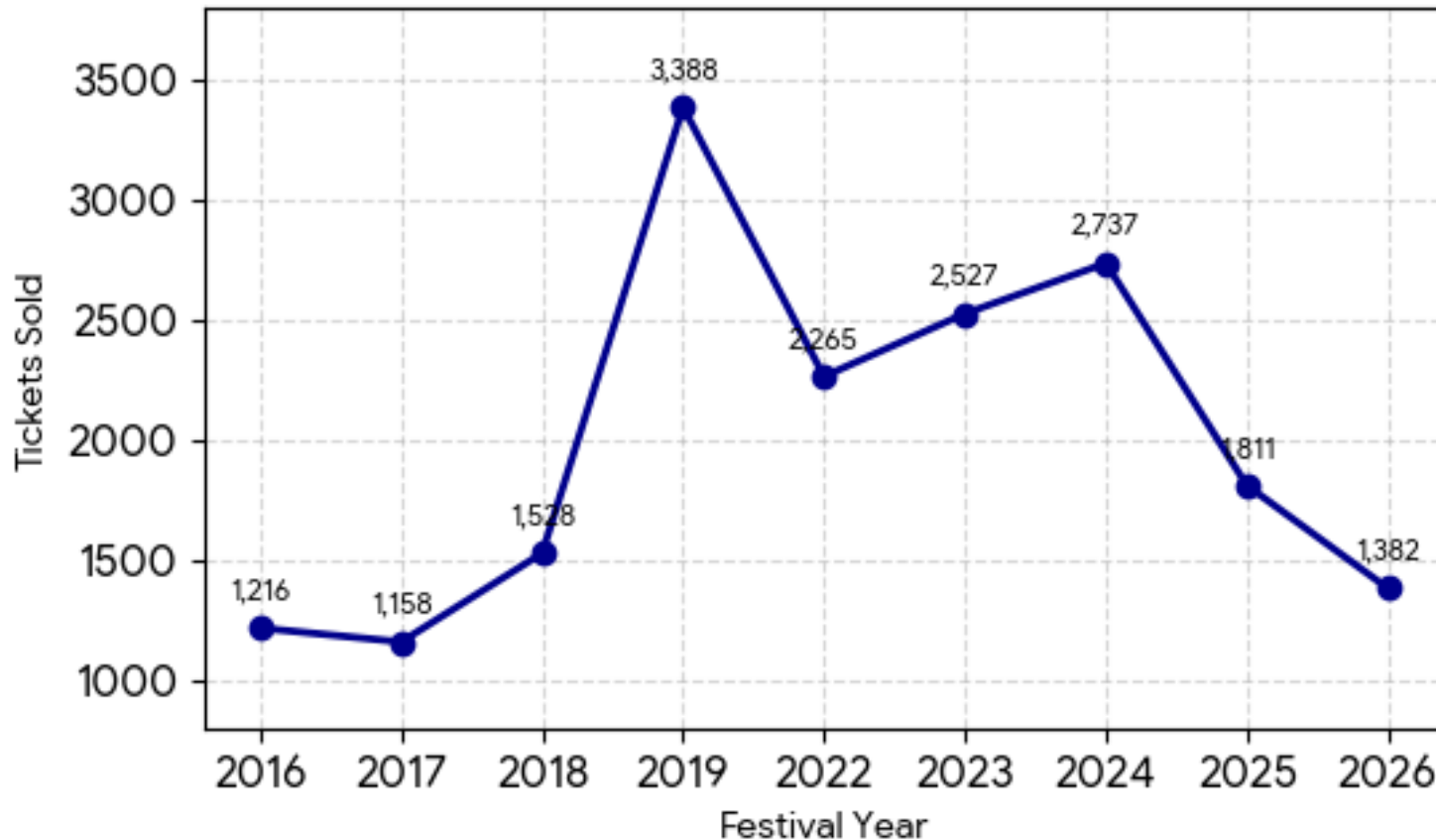
### UPCOMING:

- Ice Cream Social on 7/6 - Bake a pie!
- 32<sup>nd</sup> Coffin Races - Telly Award Winner, celebration on 6/23 at 4 pm at Townhouse

# Manitou Springs CO WiNe Fest



Full Festival Ticket Sales History

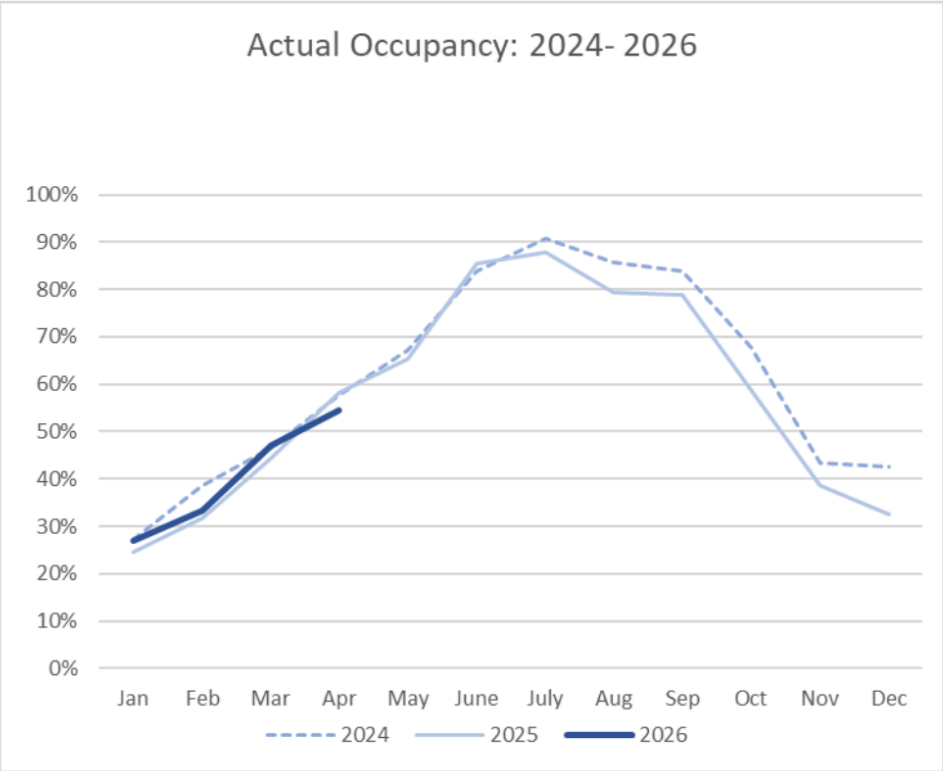


Data sourced from ticketing platforms - includes tickets sold online  
\*note COVID gap

2024-2025  
YOY -24%

# May 2025 Lodging report

- May actual occupancy = 55% (reservations within the month came in lower than expected)
- May – July bookings look similar to last year
- Expect May occupancy to be in mid 60s



Data provided by  
lodging properties in  
Manitou Springs

Report prepared by  
Neale Minch, Peak  
Analytics

# 2025 Pikes Peak Regional Data

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## 2025 Longwoods International Travel USA Visitor Profile Study

2024 - 2025: Visitation up 0.3% - 25.6M

2024 - 2025: Spending up 0.4% - \$3.1B

63% of visitation influenced by marketing efforts

Overnight travelers - 18% budget friendly / 16% outdoor seekers / 10% luxury

# Do Manitou Springs Right campaign



**DO** *MANITOU  
SPRINGS* **RIGHT** 

[manitousprings.org/do-manitou-springs-right](http://manitousprings.org/do-manitou-springs-right)



- *Do Colorado Right* is the state of Colorado's responsible travel campaign
  - Protecting our cultural and natural resources
  - Promoting traveler safety
- Began running in 2020 as Covid-19 safety education
- Expanded to Destination Stewardship
- How to explore Colorado thoughtfully

# Do Colorado Right Strategy

- Primary Target - **Visitors** showing intent to travel and in-market visitors
- Secondary Target - **Residents**
- **Engaging content** shared by experts and/or influencers
- No finger- wagging
- **Education** happens prior to visit, at points of market entry (DEN, Welcome Centers) and while in Colorado (social, vacation guide, events)



# Campaign Themes & Taglines

**Know Before You Go**  
Plan smart. Play smart.

**Support Local Business**  
Shop small, find something big.

**Go Car Free**  
Walk, ride or shuttle like a local.

**Trash the Trash**  
Protect the views you came for.

**Connect with Respect**  
Feel the heart of Manitou.

**Share the Trail**  
Good vibes make great trails.

**Prepare for Altitude**  
Ease into new heights.

# Coffin Races - Telly Award Winning!



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Watch Party 6/23/26 at  
4pm - Townhouse

47TH ANNUAL GOLD WINNER The Telly Awards RSN ADTV

47TH ANNUAL SILVER WINNER The Telly Awards RSN ADTV

SILVER WINNER

## COFFIN RACES

CATEGORY: CRAFT-EDITING EDITOR: MADDY MCHUGH  
TV HOST: CLINTON JORDAN VIDEOGRAPHER: DEAN SHALMONI



47TH ANNUAL GOLD WINNER The Telly Awards RSN ADTV

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24 TOTAL TELLY AWARDS

WE'RE HONORED TO CONTINUE SHARING POSITIVE MEDIA THAT CELEBRATES THE PEOPLE, COMMUNITIES, AND MEANINGFUL IMPACT ACROSS THE COUNTRY

Thank you to our dedicated **hosts, editors, videographers, producers** and **creative teams** who make it all possible.

# Any Questions?

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# Thank you!



## Memorandum

Title: Community Budget Engagements Overview

From: Denise Howell, City Administrator

To: Mayor and City Council

CC: City Administrator Denise Howell

Allocated Time: 30 Minutes

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June 16, 2026

### **Purpose:**

The purpose of this item is to provide City Council with a high-level overview of community feedback gathered during the recent budget engagement sessions. Berrick Abramson with Confluence Policy and Strategy Group, will present a summary of key themes, priorities, and outcomes identified through these engagements.

### **Background:**

The City hosted community budget engagement sessions on June 11 and June 13, 2026, to gather input from residents regarding priorities, concerns, and preferences related to the city's budget. These sessions provided an opportunity for participants to share feedback directly and engage in discussions about City services, funding priorities, and future investments. The consultant will present a high-level overview of what was heard from participants, including common themes, areas of consensus, and notable considerations.

### **Fiscal Impact:**

### **Workload Impact:**

### **Recommended Action:**

This is for informational purposes only.



## Memorandum

Title: Monthly Financial Report  
From: Nate Moore, Sr. Budget Analyst  
To: Mayor and City Council  
CC: City Administrator Denise Howell  
Allocated Time: 10 Minutes

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June 16, 2026

### **Purpose:**

In order to ensure fiscal responsibility, these financial reports are to be presented to Council monthly, so decisions made for the fiscal year are made with confidence.

### **Background:**

Council wants a monthly report presented to see the current status of the City's revenues and expenditures, and any analysis that can be received from these reports so they have financial awareness in guiding the City during the fiscal year.

### **Fiscal Impact:**

None

### **Workload Impact:**

Minimal

### **Recommended Action:**

Review Only



## 2026 Monthly Financial Report

**May-26**

This report presents an analysis of the City's Enterprise Funds revenues and expenses, consisting of comparisons to budget and the unaudited prior year.

### ENTERPRISE FUND EXPENSES

	Jan-May '25	Jan-May '26	2026 Original Budget	% '26 Actuals to Budget (41.67% thru the year)
	Actuals	Actuals		
<b>Water</b>	\$ 999,626.04	\$ 1,177,156.69	\$ 2,609,905.92	45.10%
<b>Wastewater</b>	\$ 532,356.91	\$ 528,142.16	\$ 2,062,645.70	25.61%
<b>Storm Drainage</b>	\$ 156,464.90	\$ 100,844.32	\$ 743,424.37	13.56%
<b>Mobility &amp; Parking</b>	\$ 1,289,767.84	\$ 1,471,986.24	\$ 4,577,829.08	32.15%
<b>SUBTOTAL ENTERPRISE EXP</b>	<b>\$ 2,978,215.69</b>	<b>\$ 3,278,129.41</b>	<b>\$ 9,993,805.07</b>	<b>32.80%</b>

*\*Mobility & Parking 2026 expenses includes \$231,169 for shuttle services and \$625,000 in transfers to the General Fund.*

### ENTERPRISE FUND REVENUES

	Jan-May '25	Jan-May '26	2026 Original Budget	% '26 Actuals to Budget (41.67% thru the year)
	Actuals	Actuals		
<b>Water</b>	\$ 833,754.12	\$ 993,968.02	\$ 2,730,986.00	36.40%
<b>Wastewater</b>	\$ 657,370.26	\$ 809,998.76	\$ 1,766,727.00	45.85%
<b>Storm Drainage</b>	\$ 256,436.73	\$ 312,001.86	\$ 762,000.00	40.95%
<b>Mobility &amp; Parking</b>	\$ 986,691.89	\$ 750,420.91	\$ 4,009,500.00	18.72%
<b>SUBTOTAL ENTERPRISE REV</b>	<b>\$ 2,734,253.00</b>	<b>\$ 2,866,389.55</b>	<b>\$ 9,269,213.00</b>	<b>30.92%</b>



## 2026 Monthly Financial Report

**May-26**

This report presents an analysis of the City's General Fund revenues and expenditures, consisting of comparisons to budget and the unaudited prior year.

### GENERAL FUND EXPENDITURES

	Jan-May '25 Actuals	Jan-May '26 Actuals	2026 Original Budget	% '26 Actuals to Budget (41.67% thru the year)
Legislative/City Council	\$ 167,638.37	\$ 160,116.00	\$ 489,070.00	32.74%
City Clerk	\$ 132,276.27	\$ 182,845.02	\$ 465,315.00	39.29%
Judicial	\$ 13,772.31	\$ 39,677.92	\$ 83,372.00	47.59%
Executive	\$ 390,298.30	\$ 398,590.87	\$ 918,850.00	43.38%
Finance	\$ 262,200.70	\$ 310,107.56	\$ 707,575.00	43.83%
Neighborhood Services	\$ 34,539.16	\$ 53,137.46	\$ 134,903.00	39.39%
Planning	\$ 218,396.36	\$ 199,369.04	\$ 555,445.00	35.89%
Police	\$ 996,968.58	\$ 991,451.45	\$ 2,540,940.00	39.02%
Fire	\$ 481,765.86	\$ 530,520.77	\$ 1,469,098.00	36.11%
EMS Transport	\$ 343,185.03	\$ 343,565.12	\$ 855,950.00	40.14%
Public Service	\$ 531,766.14	\$ 473,825.36	\$ 1,401,344.00	33.81%
Parks & Recreation	\$ 602,663.12	\$ 505,390.44	\$ 1,363,770.00	37.06%
Pool & Fitness	\$ 277,195.30	\$ 262,598.23	\$ 666,093.00	39.42%
<b>SUBTOTAL OPERATING</b>	<b>\$ 4,452,665.50</b>	<b>\$ 4,451,195.24</b>	<b>\$ 11,651,725.00</b>	<b>38.20%</b>
Economic Development	\$ 293,627.50	\$ 275,000.00	\$ 635,237.00	43.29%
Intergovernmental & Other	\$ 8,595.00	\$ 5,452.00	\$ 10,870.00	50.16%
Transfers Out	\$ 583,584.27	\$ 583,562.21	\$ 1,400,600.00	41.67%
<b>SUBTOTAL NON-OPERATING</b>	<b>\$ 885,806.77</b>	<b>\$ 864,014.21</b>	<b>\$ 2,046,707.00</b>	<b>42.21%</b>
Committed/Assigned	\$ 10,398.27	\$ 105,102.56	\$ 260,000.00	40.42%
<b>TOTAL EXPENSES</b>	<b>\$ 5,348,870.54</b>	<b>\$ 5,420,312.01</b>	<b>\$ 13,958,432.00</b>	<b>38.83%</b>

**Current Analysis:** Expenditures are in line with last year, with the larger variance showing under the 'Committed/Assigned', which is Barr Trail maintenance and shuttle (both budgeted). Sales tax is bringing total revenue down compared to last year, which was planned and budgeted for. 'Administrative Support' are transfers from other funds to support the General Fund, with the majority coming from Mobility & Parking (\$625,000).

## GENERAL FUND REVENUES

	Jan-May '25	Jan-May '26	2026 Original Budget	% '26 Actuals to Budget (41.67% thru the year)
	Actuals	Actuals		
Sales Tax *	\$ 1,898,462.52	\$ 1,037,452.69	\$ 4,900,000.00	21.17%
Property Tax **	\$ 676,844.59	\$ 896,445.04	\$ 1,215,270.00	73.77%
Specific Ownership Tax **	\$ 43,737.31	\$ 42,339.97	\$ 110,000.00	38.49%
Public Utilities Franchise Tax **	\$ 157,489.92	\$ 141,668.42	\$ 437,000.00	32.42%
Auto Use Tax **	\$ 156,218.99	\$ 105,730.67	\$ 395,000.00	26.77%
General Use Tax	\$ 18,139.21	\$ 46,529.37	\$ 60,000.00	77.55%
Amusement Tax	\$ 236,313.29	\$ 197,542.35	\$ 1,400,000.00	14.11%
Lodging Tax	\$ 46,821.82	\$ 45,923.07	\$ 310,000.00	14.81%
Telephone Franchise Tax	\$ 5,000.00	\$ 3,750.00	\$ 15,000.00	25.00%
Cable TV Franchise Tax	\$ 10,195.13	\$ 9,361.34	\$ 42,000.00	22.29%
Penalties/Interest on Taxes	\$ 61.87	\$ 83.46	\$ 500.00	16.69%
<b>TOTAL TAXES</b>	<b>\$ 3,249,284.65</b>	<b>\$ 2,526,826.38</b>	<b>\$ 8,884,770.00</b>	<b>28.44%</b>
Liquor License and App Fees	\$ 4,346.25	\$ 4,446.25	\$ 10,500.00	42.35%
Planning Fees	\$ 12,440.60	\$ 11,850.61	\$ 45,000.00	26.33%
Business License Fees	\$ 12,691.97	\$ 10,020.20	\$ 25,000.00	40.08%
Other Licenses/Permits	\$ 8,283.00	\$ 8,498.10	\$ 17,500.00	48.56%
<b>TOTAL LICENSES &amp; PERMITS</b>	<b>\$ 37,761.82</b>	<b>\$ 34,815.16</b>	<b>\$ 98,000.00</b>	<b>35.53%</b>
Highway User Tax **	\$ 55,200.97	\$ 54,486.16	\$ 175,447.82	31.06%
Cigarette Tax **	\$ 1,331.71	\$ 1,754.14	\$ 7,200.00	24.36%
Road & Bridge	\$ 6,224.49	\$ 8,080.47	\$ 17,000.00	47.53%
Auto License Fees	\$ 5,380.14	\$ 5,180.31	\$ 15,000.00	34.54%
<b>TOTAL GOV'T SHARED</b>	<b>\$ 68,137.31</b>	<b>\$ 69,501.08</b>	<b>\$ 214,647.82</b>	<b>32.38%</b>
Event Fees	\$ 7,102.00	\$ 13,261.00	\$ 12,000.00	110.51%
Police Services	\$ 820.00	\$ 627.50	\$ 49,000.00	1.28%
Fire Protection/Plans Review	\$ 28,514.29	\$ -	\$ 52,300.00	0.00%
EMS Transport Revenue	\$ 57,940.88	\$ 78,530.84	\$ 400,000.00	19.63%
Swimming Pool Fees/Sales	\$ 77,819.22	\$ 69,851.65	\$ 131,500.00	53.12%
Memorial Hall Use Fees	\$ 6,338.00	\$ 2,767.00	\$ 20,000.00	13.84%
Park Use Fees	\$ 2,775.50	\$ 1,966.00	\$ 8,000.00	24.58%
Recreational Program Fees	\$ 2,154.45	\$ 608.00	\$ 17,000.00	3.58%
<b>TOTAL SERVICES CHARGES</b>	<b>\$ 183,464.34</b>	<b>\$ 167,611.99</b>	<b>\$ 689,800.00</b>	<b>24.30%</b>
<b>FINES &amp; FEES REVENUE</b>	<b>\$ 17,524.08</b>	<b>\$ 22,432.14</b>	<b>\$ 46,215.00</b>	<b>48.54%</b>
Grants/Contrib/Donations/Misc.	\$ 41,121.48	\$ 2,814.65	\$ 2,300.00	122.38%
Investment Interest	\$ 147,427.10	\$ 125,123.02	\$ 275,000.00	45.50%
Cemetery Sales	\$ 29,961.77	\$ 38,241.90	\$ 65,000.00	58.83%
Proceeds from Sales of Assets	\$ 485.62	\$ 71,924.00	\$ 30,400.00	236.59%
<b>TOTAL OTHER</b>	<b>\$ 218,995.97</b>	<b>\$ 238,103.57</b>	<b>\$ 372,700.00</b>	<b>63.89%</b>
Administrative Support	\$ 128,576.20	\$ 741,720.80	\$ 1,780,130.00	41.67%
Committed/Assigned Rev	\$ 153,610.20	\$ 162,223.49	\$ 451,700.00	35.91%
<b>TOTAL REVENUES</b>	<b>\$ 4,057,354.57</b>	<b>\$ 3,963,234.61</b>	<b>\$ 12,537,962.82</b>	<b>31.61%</b>

\*January-March

\*\*January-April

**CITY OF MANITOU SPRINGS**  
**REPORT OF SALES TAX COLLECTIONS/TAXABLE SALES**

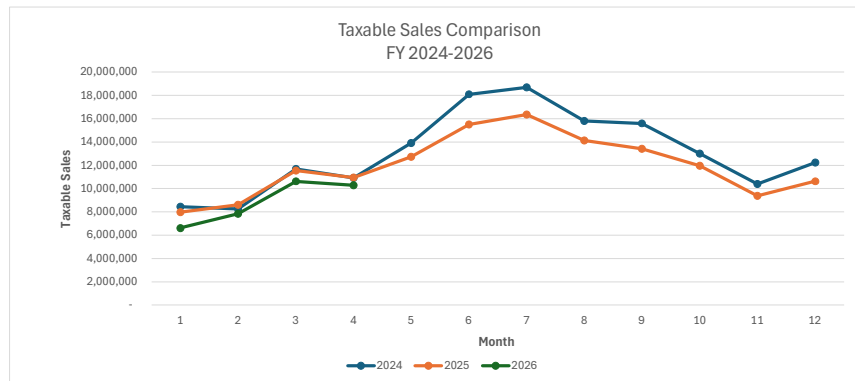
For the period from APRIL 2024-2026

Sales tax percentage as of 2020: 3.9% as of July (3.5% General Fund, .1% Open Space Fund, .3% MACH).  
 Sales tax percentage as of 2022: MJ for City increased from 6% to 10% (State 1.5%, Regular Sales Tax 3.9%, City 10%)  
 Sales tax percentage as of June 2025: MJ for City reduced from 10% to 5%, State 1.5%, Regular Sales Tax 3.9%

MONTH	2024 3.9% MJ 11.5% COLLECTED			2025 3.9% MJ 11.5% COLLECTED			% Change in Sales 25/24		2026 3.9% MJ 6.5% COLLECTED			Change in Sales Tax Collected % 26/25		% CHANGE in Sales 26/25		% CHANGE in Sales 26/24	
	MONTH	YEAR TO DATE		MONTH	YEAR TO DATE		MONTH	YEAR	MONTH	YEAR TO DATE		Month	YEAR	MONTH	YEAR	MONTH	YEAR
JANUARY	\$ 609,510	8,456,010	\$ 8,456,010	\$ 575,575	7,987,620	\$ 7,987,620	-5.5%	-5.5%	\$ 301,090	\$ 6,617,365	\$ 6,617,365	-47.7%	-47.7%	-17.2%	-17.2%	-21.7%	-21.7%
FEBRUARY	\$ 515,600	8,257,169	\$ 16,713,179	\$ 587,309	8,598,881	\$ 16,586,501	4.1%	-0.8%	\$ 349,083	\$ 7,838,492	\$ 14,455,857	-40.6%	-44.1%	-8.8%	-12.8%	-5.1%	-13.5%
MARCH	\$ 821,993	11,679,058	\$ 28,392,237	\$ 723,401	11,544,602	\$ 28,131,103	-1.2%	-0.9%	\$ 452,161	\$ 10,624,046	\$ 25,079,903	-37.5%	-41.6%	-8.0%	-10.8%	-9.0%	-11.7%
APRIL	\$ 721,089	10,919,069	\$ 39,311,306	\$ 608,367	10,941,331	\$ 39,072,434	0.2%	-0.6%	\$ 427,819	\$ 10,280,395	\$ 35,360,298	-29.7%	-38.7%	-6.0%	-9.5%	-5.8%	-10.1%
MAY	\$ 848,548	13,915,705	\$ 53,227,011	\$ 645,448	12,722,762	\$ 51,795,196	-8.6%	-2.7%			\$ 35,360,298	-100.0%	-51.3%	-100.0%	-31.7%	-100.0%	-33.6%
JUNE	\$ 1,101,563	18,097,878	\$ 71,324,889	\$ 694,305	15,493,155	\$ 67,288,351	-14.4%	-5.7%			\$ 35,360,298	-100.0%	-60.1%	-100.0%	-47.4%	-100.0%	-50.4%
JULY	\$ 1,073,914	18,678,852	\$ 90,003,741	\$ 722,032	16,354,682	\$ 83,643,033	-12.4%	-7.1%			\$ 35,360,298	-100.0%	-66.4%	-100.0%	-57.7%	-100.0%	-60.7%
AUGUST	\$ 898,429	15,799,874	\$ 105,803,615	\$ 629,358	14,143,769	\$ 97,786,802	-3.6%	-1.4%			\$ 35,360,298	-100.0%	-70.5%	-100.0%	-63.8%	-100.0%	-66.6%
SEPTEMBER	\$ 964,549	15,592,261	\$ 121,395,876	\$ 595,481	13,425,659	\$ 111,212,461	-4.7%	-1.8%			\$ 35,360,298	-100.0%	-73.5%	-100.0%	-68.2%	-100.0%	-70.9%
OCTOBER	\$ 800,580	13,002,427	\$ 134,398,303	\$ 535,960	11,963,618	\$ 123,176,079	-4.9%	-2.1%			\$ 35,360,298	-100.0%	-75.8%	-100.0%	-71.3%	-100.0%	-73.7%
NOVEMBER	\$ 708,626	10,389,665	\$ 144,787,968	\$ 424,052	9,379,859	\$ 132,555,938	-9.7%	-8.4%			\$ 35,360,298	-100.0%	-77.3%	-100.0%	-73.3%	-100.0%	-75.6%
DECEMBER	\$ 778,374	12,236,094	\$ 157,024,062	\$ 473,176	10,634,929	\$ 143,190,867	-13.1%	-8.8%			\$ 35,360,298	-100.0%	-78.8%	-100.0%	-75.3%	-100.0%	-77.5%
YEAR-TO-DATE	\$ 9,842,775	157,024,062		\$ 7,214,464	143,190,867				\$ 1,530,153								

**BY VENDOR TYPE**

FOR REPORTED MONTH (April) SALES ONLY																	
1 Amusement/Bars	21,848	\$ 560,205	1,605,583	17,031	\$ 436,685	1,430,804	-22.0%	-10.9%	15,309	392,534	1,287,449	-10.1%		-10.1%	-10.0%	-29.9%	-19.8%
2 Shops-Gift, etc.	89,968	\$ 2,306,872	7,370,744	118,195	\$ 3,030,630	7,640,297	31.4%	3.7%	96,329	2,469,982	7,867,646	-18.5%		-18.5%	3.0%	7.1%	6.7%
3 Stores-Food/Gas	4,434	\$ 113,692	554,529	5,745	\$ 147,295	529,728	29.6%	-4.5%	5,901	151,310	529,492	2.7%		2.7%	0.0%	33.1%	-4.5%
4 Motels, B&B, etc.	41,394	\$ 1,061,385	3,394,659	44,088	\$ 1,130,462	3,459,442	6.5%	1.9%	36,129	926,396	3,008,718	-18.1%		-18.1%	-13.0%	-12.7%	-11.4%
5 Restaurants	45,908	\$ 1,177,128	3,908,167	46,568	\$ 1,194,050	4,287,542	1.4%	9.7%	49,414	1,267,028	4,352,280	6.1%		6.1%	1.5%	7.6%	11.4%
6 Other in City	395,372	\$ 2,567,351	9,870,011	243,260	\$ 1,579,611	8,441,985	-38.5%	-14.5%	43,014	413,595	2,324,633	-82.3%		-73.8%	-72.5%	-83.9%	-76.4%
Subtotal	598,924	\$ 7,786,633	26,703,694	474,886	\$ 7,518,733	25,789,799	-3.4%	-3.4%	246,097	5,620,845	19,370,218	-48.2%		-25.2%	-24.9%	-27.8%	-27.5%
7 Utz & Monthly Svc	19,528	\$ 500,718	2,213,359	19,933	\$ 511,094	2,528,579	2.1%	14.2%	18,222	467,220	2,350,808	-8.6%		-8.6%	-7.0%		
8 Outside City	102,637	\$ 2,631,718	10,394,253	113,549	\$ 2,911,504	10,754,056	10.6%	3.5%	163,501	4,192,329	13,639,272	44.0%		44.0%	26.8%	59.3%	31.2%
	721,089	\$ 10,919,069	39,311,306	608,367	\$ 10,941,331	39,072,434	0.2%	-0.6%	427,819	10,280,395	35,360,298	-29.7%		-6.0%	-9.5%	-5.8%	-10.1%





## Memorandum

Title: Consider Appointing Sean Warner to the City Planning Commission

From: City Clerk's Office

To: Mayor and City Council

CC: City Administrator Denise Howell

Allocated Time: 5 Minutes

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June 16, 2026

### **Purpose:**

For Council to consider appointing Sean Warner to serve as an Alternate Member of the City Planning Commission (CPC).

### **Background:**

Sean Warner has submitted an application and resume for the Council's consideration. CPC Chair Alan Delwiche has also submitted a letter of recommendation endorsing Warner's request.

### **Fiscal Impact:**

None.

### **Workload Impact:**

Minimal.

### **Recommended Action:**

Move to appoint Sean Warner as an Alternate Member of the City Planning Commission.



## City of Manitou Springs

### Application for Board/Commission Membership

Please complete the following to express interest in board or commission membership.

[Click here for a list of all board and commission vacancies!](#)

Which Board are you Applying For? Planning Commission

Membership Requested • Alternate

Full Name Sean Warner

Street Address [Redacted]

City Manitou Springs

State CO

Zip Code 80829

Phone [Redacted]

Email [Redacted]

Do you have any special interests? If so, please briefly provide details below: Real Estate sales and investments

*Per City Charter 9.3: The Council shall not appoint to any Board or Commission any member of the immediate family of any Council Member. Immediate family shall be defined as spouse, parents, brothers, sisters, and children.*

*(Amendment No. 8, adopted and approved January 14, 1975)*

Do you have an immediate family member on City Council? No

Please attach a resume: Sean\_Warner\_Resume.pdf



## Sean M. Warner



Security Clearance: Top Secret

### SUMMARY OF QUALIFICATIONS

Top-producing Realtor in the Pikes Peak region with extensive leadership, negotiation, and management experience. Owner and Employing Broker of successful real-estate firms in Colorado and Florida. Over 23 years of progressive leadership in the U.S. Army, including Special Forces and Intelligence assignments in high-risk environments worldwide. Recognized for exceptional organizational management, operational planning, and client-focused results.

Core Competencies: Real-estate sales & negotiations • Brokerage management • Contract & risk management • Business operations • Training & mentorship • Client relations • Strategic planning • Spanish fluency (proficient)

### PROFESSIONAL EXPERIENCE

- **The Warner Group - Colorado/Florida Real Estate**

Realtor / Employing Broker | 2015 - Present

- Top-producing Realtor in the Pikes Peak Region; sold 300+ residential and commercial properties in CO and FL.
- Licensed Employing and Associate Broker with deep expertise in property valuation, market analysis, and negotiations.
- Trained and supervised 22 Realtors; guided business development, client relations, and compliance.
- Featured in Real Producers Magazine; graduate of the Pikes Peak Association of Realtors Leadership Academy.
- Skilled in residential and commercial transactions, investment property evaluation, and contract strategy.

- **United States Northern Command (USNORTHCOM)**

Joint Task Force North Liaison Officer | 2010 - 2013

- Led Joint and Interagency operational planning in Homeland Defense, Counter-Narcotics, and Defense Support to Civil Authorities.
- Served as key planner for Counter-Transnational Criminal Organizations initiatives.
- Coordinated operations with federal agencies, partner nations, and interagency working groups.
- Recognized for expertise in Joint Operations and DoD support to law-enforcement entities across the Southwest border.

- **10th Special Forces Group (Airborne)**

#### Battalion Operations Officer | 2008 – 2010

- Directed operational planning and execution for global Special Forces missions across EUCOM and CENTCOM.
- Managed staff operations for a 1,500-person Joint Task Force of U.S. and allied SOF units.
- Oversaw planning, resource allocation, training, and logistics for combat deployments to Iraq.
- Developed and executed cost-saving initiatives that reduced training expenses by 70%.

#### Special Forces Detachment Commander | 2006 – 2008

- Commanded a 12-man Special Forces Detachment during combat operations in Iraq.
- Led joint operations and foreign-partner engagements in Turkey and the Middle East.
- Praised by the Assistant Secretary of Defense for SOLIC for exceptional mission success and diplomacy.

- **Military Intelligence Officer | 2001 – 2006**

- Led intelligence operations supporting Special Operations Forces in Iraq and multinational exercises in Egypt.
- Delivered actionable intelligence briefings to senior commanders during combat and training operations.
- Directed a 27-soldier Ground Surveillance Platoon; ensured operational readiness and global deployability.

- **Special Forces Weapons Sergeant | 1994 – 2001**

- Conducted Counter-Narcotics operations across South and Central America.
- Served as liaison and instructor in Spanish for foreign military partners.
- Led tactical operations, airborne, and dive training for allied forces.

### EDUCATION & CERTIFICATIONS

MBA, Finance & International Business – University of Colorado, Colorado Springs, CO (2016)

B.S., Business Administration (Minor: Accounting) – Regis University, Denver, CO (2004)

A.A., General Studies – Campbell University, Buies Creek, NC (1999)

Licensed Real Estate Broker in Colorado and Florida.

Military Relocation Professional Certified

#### **Professional Training & Military Education:**

- U.S. Army Special Forces Officer Qualification Course, 2006
- SERE, Ranger, Jumpmaster & Combat Diver Qualification Courses
- Military Intelligence Officer Basic & Infantry Captain's Career Courses
- DSCA I & II Certified

### AWARDS & RECOGNITION

- Featured, Real Producers Magazine – Top Real Estate Professionals
- Multiple U.S. Army Commendation & Achievement Medals
- Recognized by U.S. Special Forces Command for operational excellence

**June 8, 2026**

Mayor Johnson and City Council,

I have reviewed Sean Warner's application and believe he is well for appointment as an alternate member of the Planning Commission. Sean has attended several recent planning commission meetings and has met with me to discuss the expectations and responsibilities of this role. He has demonstrated a clear understanding of the commission's duties, including its quasi-judicial function and the limitations that come with the position.

I recommend Sean Warner for appointment as an alternate member of the Planning Commission.

**Sincerely,**

Alan Delwiche

Chair, Planning Commission