DESIGN/BUILD AGREEMENT

HOSPITAL EXPANSION, RENOVATION AND PARKING STRUCTURE

GILLETTE, WYOMING

CAMPBELL COUNTY MEMORIAL HOSPITAL

OWNER

__________________________________

DESIGN/BUILDER

December 2008
TABLE OF CONTENTS

ARTICLE 1 SERVICES OF THE DESIGN/BUILDER

1.1 DESIGN OF PROJECT
1.1.1 Responsibility for Design
1.1.2 Services of the Architect
1.1.3 Owner’s Separate Consultants
1.1.4 Owner’s Separate Suppliers
1.1.5 Owner Furnished Equipment
1.1.6 Site Conditions
1.1.7 Utility Services
1.1.8 Compliance with Laws and Governmental Approvals
1.1.9 Drawings and Specifications
1.1.10 Design Approval Process
1.1.11 Record Drawings
1.1.12 Performance of Design and Engineering Services

1.2 PRE-CONSTRUCTION SERVICES
1.2.1 Project Phasing and Conceptual Schedule
1.2.2 Review of Drawings and Specifications
1.2.3 Value Engineering and Specifications
1.2.4 Contract Documents
1.2.5 Interfacing Portions of the Work
1.2.6 Job Site Facilities
1.2.7 Labor
1.2.8 Preparation of Cost Estimates
1.2.9 Cost Consultation
1.2.10 Long Lead Time Procurement

1.3 PROJECT SUPERVISION, COORDINATION AND MANAGEMENT
1.3.1 Supervision
1.3.2 Coordination
1.3.3 Award of Subcontracts and Purchase Orders
1.3.4 Cost Control System
1.3.5 Schedule
1.3.6 Owner-Furnished Equipment
1.3.7 Prevailing Wages
1.3.8 Shop Drawings, Product Data and Samples
1.3.9 Labor Relations
1.3.10 Progress Meetings
1.3.11 Project Safety Programs
1.3.12 Payments to the Subcontractors
1.3.13 Changes in the Work
1.3.14 Inspections
1.3.15 Start-up Program
1.3.16 Recommendations and Communications

1.4 PROJECT DOCUMENTS
1.4.1 Job-Site Records
1.4.2 Field Operations Manual
1.4.3 As-Built Drawings
1.4.4 Guarantees, Warranties and Operating Manuals
1.4.5 Minutes
ARTICLE 13 TERMINATION BY OWNER WITHOUT CAUSE .....................................................................39

ARTICLE 11    LIMITATION ON LIABILITY.......................................................................................... ..........38

ARTICLE 10 INDEMNIFICATION..................................................................................................... ..................37

ARTICLE 9 PROFESSIONAL LIABILITY INSURANCE .................................................................................37

ARTICLE 7 CONFIDENTIAL INFORMATION .................................................................................................36

ARTICLE 6 CONFLICT OF INTEREST ..............................................................................................................35

ARTICLE 5 OWNER .........................................................................................................................................35

ARTICLE 4 PAYMENT PROCEDURES ..............................................................................................................32

ARTICLE 3 DESIGN/BUILDER’S COMPENSATION .......................................................................................27

ARTICLE 2 TIME FOR PERFORMANCE ........................................................................................................25

ARTICLE 1 CONTRACT SUM AMOUNT ........................................................................................................24
THIS DESIGN/BUILD AGREEMENT (this “Agreement”), entered into this _____ day of ________, 2009, by and between CAMPBELL COUNTY MEMORIAL HOSPITAL, a Hospital District, whose address is 501 South Burma Avenue, Gillette, Wyoming  82716 (the “Owner”) and the _________________ corporation, whose address is (the “Design/Builder”).

RECITALS:

This Agreement is based on the following recitals:

A. The Owner is the owner of a parcel of land of approximately 13.25 acres located ______________ (the “Project Site”). The Project Site is more particularly defined in Exhibit E attached hereto.

B. The Owner intends to construct __________________________ (collectively, the “Project”). The Project is more particularly described in the Project Description attached hereto as Exhibit A.

C. The Owner desires to secure the services of the Design/Builder to design and construct the Project in accordance with construction drawings and specifications furnished by the Design/Builder and approved by the Owner and the State of Wyoming in accordance with this Agreement (the “Drawings and Specifications”) and to assume all duties and responsibilities that are imposed on the Design/Builder under this Agreement.

NOW, THEREFORE, the Owner and the Design/Builder agree as follows:

ARTICLE 1

SERVICES OF THE DESIGN/BUILDER

Subject to and in accordance with the terms and provisions of this Agreement, Design/Builder shall provide competent supervision, coordination, management, professional architectural and engineering services, and related services for the design, engineering and construction of, and shall cause to be constructed, the Project in accordance with the Drawings and Specifications including all things indicated by or reasonably implied therefrom so as to bring the Project to completion on time, consistent with the Owner’s quality objectives as defined in the Owner’s Project Criteria set forth in Exhibit B hereto and otherwise indicated in the Contract Documents, and within the Guaranteed Maximum Price. Such services shall include, but are not limited to, those specified in this Article 1.
1.1 Design of Project:

1.1.1 Responsibility for Design:

1.1.1.1 The Project design and engineering and the Drawings and Specifications shall comply with the (i) the Project Description (Exhibit A); (ii) the Owner’s requirements and criteria for the Project set forth in the Project Criteria attached hereto as Exhibit B; (iii) the Preliminary Design Concept for the Project previously approved by the Owner attached hereto as Exhibit C; (iv) the other requirements of this Agreement. The Preliminary Design Concept (Exhibit D) may include partially completed drawings and specifications provided by the Design/Builder’s Architect to describe the overall layout of project spaces, number of rooms and design concept for systems to be included in the Project; and (v) the Owner’s Consultants.

1.1.1.2 The Design/Builder shall be responsible for all professional architectural and engineering services required for the design and construction of the Project and for the preparation of the Drawings and Specifications. The Design/Builder shall be responsible to the Owner for compliance of the design and engineering of the Project with the requirements of this Agreement, whether such design and engineering are furnished by the Design/Builder’s Architect or the Design/Build Subcontractor, as defined in Section 1.1.2.4 engaged by the Design/Builder.

1.1.1.3 The Design/Builder shall be responsible for the compliance of the Preliminary Design Concept (Exhibit C) with the Owner's Project Criteria (Exhibit B) and Applicable Laws, as defined in Section 1.1.8 hereto.

1.1.2 Services of the Architect:

1.1.2.1 The Design/Builder shall provide the services of the Owner selected Architect (the “Thomas, Miller & Partners”), licensed to practice in Wyoming where the Project is located, to provide all necessary architectural and engineering services required for the design and construction of the Project. The Design/Builder (or the Architect) shall provide the services of, and the Design Fee includes, all fees and costs for architectural; civil, soils/geotechnical engineer (other than the original soils report); structural, mechanical, electrical and plumbing engineering; landscaping architecture; signage design; interior design; communications systems design; medical equipment planning consultant; and other design and engineering services required for the Project, excluding only the Owner's Consultants listed on Exhibit F hereto. The Architect shall be the Architect of Record for the Project. If the Design/Builder engages outside consultants to provide engineering or other consulting services in connection with the design and engineering of the Project, such consultants and the scope of the services to be provided by such consultants shall be subject to the Owner’s prior written approval.

1.1.2.2 The Architect and its personnel shall have a level of involvement during the construction phase for the Project sufficient to effectively convey, translate and apply the information and knowledge gained during the design phases for the Project.
services of the Architect shall include, without limitation, investigation of the Project Site as necessary for the preparation of the Drawings and Specifications, preparation of a site plan for the Project, preparation of Drawings and Specifications for the Project in accordance with the requirements of this Agreement, preparation of design and engineering submittals for applications for permits and approvals for the Project, regular (at least monthly and more often if appropriate) inspection of the Work during construction, review and approval of Shop Drawings and other Subcontractor and supplier submittals required to be submitted under the Drawings and Specifications, monthly inspection of the Project and review and certification of Design/Builder’s and Subcontractors’ applications for payment, consultation regarding design issues during construction, revisions to the Drawings and Specifications to implement changes to the Work approved by the Owner, inspection of the construction work for the Project upon Substantial Completion and Final Completion of construction work, approval of the punchlist upon Substantial Completion, and written certification to Owner that the Project has been constructed in accordance with the Drawings and Specifications and requirements of the Contract Documents. The Design/Builder shall at all times provide a competent and efficient professional architectural and engineering staff sufficient to adequately carry out the terms of this Agreement within the stipulated time periods. The Design/Build architect will be under contract and, therefore, under the direction of the Design/Builder.

1.1.2.3 Attached hereto as Exhibit D is a personnel chart identifying the Design/Builder’s Architect and design consultants, the key personnel assigned to the Project by the Architect and such design consultants, and the role of each such key personnel. Exhibit D also sets forth the hourly billing rates for the Architect’s and other consultants’ personnel and categories of personnel, which hourly billing rates shall apply only for purposes of calculating Change Order amounts in accordance with Article 12 of the General Conditions. No appointment, substitution or reassignment of the Architect or other consultants or the key personnel listed in Exhibit D shall be made without the prior written consent of the Owner, unless Design/Builder (or an affiliate of Design/Builder) terminates the employment of such key personnel, such key personnel leave the employ of the Architect or any affiliated entity, or the Design/Builder determines, and the Owner agrees, that a substitution of the Architect or key personnel is in the best interest of the Project. In connection with any proposed appointment, substitution or reassignment, the Design/Builder shall submit to the Owner a detailed justification supported by the qualifications of any proposed substitution. If the Owner approves a substitute architect proposed by the Design/Builder, such substitute architect shall be the Architect of Record for the Project. Included in Exhibit D is a responsibility matrix (“Responsibility Matrix”) indicating the responsibility of the Architect and each of the Consultants respectively for the preparation of the drawings and specifications and performance of other design and engineering tasks for the Project. The Responsibility Matrix included in Exhibit D shall not be modified without the approval of the Owner.

1.1.2.4 The Design/Builder intends to engage a subcontractor (the “Design/Build Subcontractor”) to provide calculations for sprinklers in accordance with Applicable Laws based on layouts for sprinkler heads provided by the Design/Builder. No other
design/build subcontractors shall be engaged by the Design/Builder for the Project without the prior approval of the Owner, which approval shall not be unreasonably withheld.

1.1.2.5 The Architect shall provide such certificates as may be required under applicable standard building codes or any applicable local code or ordinance, from the architect or engineer of record for the Project.

1.1.2.6 The services of the Design/Builder’s Architect, design consultants, and the Design/Build Subcontractor shall comply with the requirements of Section 1.1.12 hereof. The Design/Builder’s Architect, design consultants and Design/Build Subcontractor shall indemnify the Owner under the terms of Article 10 hereof, and shall provide the insurance coverage required by Article 9 hereof. The Owner is the intended third-party beneficiary of all design and engineering services provided by the Architect, design consultants, and the Design/Build Subcontractor for the Project. The contracts between the Design/Builder and the Architect, design consultants and Design/Build Subcontractor shall comply with the provisions of this Agreement, including Article 1 and Article 8 hereof. The Design/Builder’s Architect, design consultants, and Design/Build Subcontractor shall agree that in the event of breach under, or termination of, this Agreement, the Design/Builder’s Architect, design consultants, and Design/Build Subcontractor shall perform their services in connection with the Project for the Owner, but only if the Owner requests such services to be performed. By performing Services, the Architect, design consultants, and the Design/Build Subcontractor shall be deemed to be bound by the foregoing provisions whether or not the Agreement between the Design/Builder and the Architect, design consultants and such Design/Build Subcontractor shall so state. The Design/Builder shall furnish to the Owner copies of the contracts between the Design/Builder and the Architect, design consultants and the Design/Build Subcontractor, which contracts shall be subject to the review and approval of the Owner.

1.1.2.7 During the bidding and construction phases of the Project, the Architect will be, in the first instance, the interpreter of the requirements of the Drawings and Specifications. The Architect will, within a reasonable time, render such interpretations as he may deem necessary for the proper execution or progress of the Work. All interpretations and decisions of the Architect and approval of Shop Drawings and other Submittals by the Architect shall be consistent with the intent of the Contract Documents. The Architect shall have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract. Such changes may be effected by Field Order or by other written order. Interpretations, minor changes, field orders, will be issued with reasonable promptness by the Architect and in accordance with any schedule agreed upon. Such decisions and interpretations shall be issued in writing and promptly delivered to the Owner. The Owner shall have fifteen (15) days from receipt to review and approve or disapprove in writing unless the circumstances require the Owner to respond in less than fifteen (15) days to avoid a delay in the progress of the Work, in which case the written
notice from the Architect shall state the time within which the Owner must respond, which time shall not be unreasonable.

1.1.2.8 At the request of the Owner, the Architect shall attend meetings with the Owner and the Design/Builder to discuss project issues and strategies.

1.1.3 Owner’s Separate Consultants: The Owner intends to engage the design and engineering consultants (“Owner’s Separate Consultants”) listed on Exhibit F attached hereto to provide services to the Owner in connection with the Project. The Design/Builder shall consult and cooperate with the Owner’s Separate Consultants, and the Design/Builder shall be responsible for the overall coordination of the design and engineering and drawings and specifications, if any, prepared by the Owner’s Separate Consultants with the design, engineering and drawings and specifications furnished by the Design/Builder, the Architect and the Design/Build Subcontractors. The Design/Builder agrees to a full exchange of Project information with the Owner’s Separate Consultants as necessary for the Owner's Separate Consultants to perform their respective services for the Project. The Owner's Separate Consultants will be required to execute confidentiality agreements prohibiting the disclosure of the Owner's and the Design/Builder's confidential Project information.

1.1.4 Owner’s Separate Suppliers: The Owner intends to engage suppliers (“Owner’s Separate Suppliers”) to furnish and install, or relocate and install, the equipment items for the Project listed on Exhibit G attached hereto.

1.1.4.1 The Design/Builder and the Design/Builder's medical equipment planning consultant shall consult with the Owner regarding the Owner’s selection of the Owner’s Separate Suppliers to provide or relocate such equipment items and the utility requirements, design and engineering requirements, installation requirements, and other requirements for such items affecting the Project design and the Drawings and Specifications. If the Design/Builder requires information regarding the equipment items to be furnished by the Owner’s Separate Suppliers, the Pre-Construction Schedule to be prepared by the Design/Builder under Section 1.3.4.1 hereof shall indicate the date mutually agreed upon by the Owner and the Design/Builder by which the Design/Builder requires such information. The Design/Builder shall identify the required information in sufficient detail in advance so that the Owner’s Separate Suppliers are able to furnish the information required by the Design/Builder within the time as provided in the Pre-Construction Schedule. The Design/Builder's medical equipment planning consultant shall be responsible for the proper coordination and management of the exchange of required information between the Owner and the Design/Builder's design team for the Project.

1.1.4.2 The Design/Builder shall be responsible for the proper coordination of the Drawings and Specifications with the requirements of the equipment furnished by the Owner’s Separate Suppliers. The Drawings and Specifications shall take into account the special requirements for equipment items to be furnished and installed by the Owner’s Separate Suppliers, including by way of example, structural support requirements, utility requirements, access requirements for installation, maintenance and repair, and similar
matters. Based on the information in Exhibit G and further information provided by the Owner with respect to the equipment items to be furnished and installed by the Owner’s Separate Suppliers, the Design/Builder shall develop a Miscellaneous Equipment Schedule for approval of the Owner, which approved Miscellaneous Equipment Schedule shall be included in the Drawings and Specifications. If the Owner has not finalized its selections of the Owner’s Separate Suppliers prior to the finalization of the Miscellaneous Equipment Schedule by the Design/Builder, the Miscellaneous Equipment Schedule shall include general utility requirements sufficient for the items manufactured by the various suppliers being considered.

1.1.4.3 The Owner and Design/Builder acknowledge that some of the Owner’s Separate Suppliers may not be identified by the Owner until the commencement of construction, and that the utilities and other requirements for the equipment items may vary depending on the selection of the Owner’s Separate Supplier. After the Owner has approved the construction Drawings and Specifications, if the Owner directs a change in an equipment item to be furnished by an Owner's Separate Supplier and the Drawings and Specifications must be revised as a result of such change by the Owner, the required revisions to the Drawings and Specifications shall be deemed to be changes to the Work under Article 12 of the General Conditions and Section 3.2.1 hereof.

1.1.5 **Owner Furnished Equipment:** The Owner intends to furnish the equipment items listed on Exhibit H attached hereto for installation by the Design/Builder. The Design/Builder shall prepare the Project design and the Drawings and Specifications to accommodate and coordinate with the Owner’s Furnished Equipment. Design/Builder will not be responsible for warranties or performance guarantee of owner-supplied equipment.

1.1.5.1 If the Design/Builder requires information regarding the Owner Furnished Equipment, the Pre-Construction Schedule shall indicate the date by which the Design/Builder requires information from the Owner regarding the Owner Furnished Equipment. The Design/Builder shall identify the required information in sufficient detail in advance so that the Owner is able to furnish the information required by the Design/Builder. Within such time as provided in the Pre-Construction Schedule, the Owner shall provide Design/Builder with Owner’s requirements for the Owner Furnished Equipment.

1.1.5.2 The Design/Builder shall be responsible for the proper coordination of the Drawings and Specifications with such requirements for the Owner Furnished Equipment. The Drawings and Specifications shall take into account the special requirements for the Owner Furnished Equipment, including by way of example, structural support requirements, utility requirements, access requirements for installation, maintenance and repair, and similar matters.

1.1.6 **Site Conditions:**

1.1.6.1 The Project design and engineering and the Drawings and Specifications shall take into account the conditions at the Project Site as required for the proper design
and construction of the Project, and as necessary to avoid delays in construction due to unknown physical conditions that reasonably could have been discovered prior to construction.

1.1.6.2 The Owner shall provide the information regarding the Project Site listed in Exhibit I attached hereto. The Design/Builder shall be entitled to rely on the accuracy, but not the completeness, of the Site information listed in Exhibit I. The Design/Builder is responsible to determine the suitability of the Site information for purposes of the design and construction of the Project and to provide any additional soil and material testing, soil investigation, analysis of geotechnical and subsurface conditions and similar testing required for the design and construction of the Project.

1.1.7 Utility Services:

1.1.7.1 The Project design and engineering and the Drawings and Specifications shall provide for utility services required for the Project, including services required for the operation of building systems, other systems and equipment shown or noted in the Drawings and Specifications, equipment furnished by the Owner’s Separate Suppliers listed in Exhibit G or the Miscellaneous Equipment Schedule, and the Owner Furnished Equipment. The Design/Builder shall review all utility service requirements for the Project, (including any services required for equipment furnished by the Owner’s Separate Suppliers and the Owner Furnished Equipment), and shall confirm such requirements with the Owner.

1.1.7.2 Unless the Owner directs otherwise, the Design/Builder shall be responsible for planning and coordination with the Owner and third party utilities as necessary to assure that required utility services are provided for, including necessary approvals, extensions shown in the Preliminary Design Concept (Exhibit C), hook-up fees (but not utility usage fees for post-construction use by the Owner or any similar charges based on utility flow rates or increased capacity or assessments), bonds, and location of structures. The Design/Builder shall be responsible to coordinate the connections, hook-ups and tie-in of utilities to make sure required utility services are provided to the Project. Unless the Owner directs otherwise, the Design/Builder shall give required notices to all affected utility owners, shall conduct meetings (to be attended by representatives of the Owner) as necessary to determine if there are public-private utilities located within the limits of the Project which require adjustments or relocations. The Design/Builder shall review and coordinate the locations of utility lines, and utility lines will be shown on the Drawings and Specifications furnished by the Design/Builder. If the Preliminary Design Concept (Exhibit C) indicates the locations for utility connections for the Project, such utility connection locations shall not be relocated or adjusted without the consent of the Owner, which consent shall be given timely and shall not be unreasonably withheld.

1.1.7.3 The Owner and Design/Builder acknowledge that some utility companies will require that certain construction work for on-site extensions and connections to the Project be performed by the utility itself, and the Guaranteed Maximum Price includes
payment to such utilities for amounts invoiced to the Owner by such utilities for work performed by the utilities. The Design/Builder shall install conduit and perform other work in connection with such extensions and connections to the extent permitted by the utilities.

1.1.8 Compliance with Laws and Governmental Approvals: The Project shall be designed and constructed to comply with all applicable federal, state, county and municipal laws, ordinances, fire and building codes, requirements and permits issued by governmental authorities for the Project, requirements of quasi-governmental authorities, and governmental rules and regulations applicable to the Project Site or the performance of this Agreement or the design, construction or occupancy of the Project, including codes in effect at the time the drawings for the Project are submitted to the State of Wyoming for review and building codes used by local governmental authorities for review and approval of the drawings in effect as of the date of issuance of the general building permit for the Project (collectively, “Applicable Laws”); provided, however, that in the event of a conflict or inconsistency between the requirements of Applicable Laws, on the one hand, and the Owner’s Project Criteria (Exhibit B), on the other hand, the Project shall be designed and constructed in accordance with the more stringent standards, as determined by the Owner.

1.1.8.1 The Owner shall obtain the permits and approvals for the Project listed on Exhibit K attached hereto. The Design/Builder shall provide drawings, plans and other engineering submittals for the design of the Project as required by the Owner to apply for such permits. Any special assessments, fees, charges, costs or licenses required by any laws, ordinances, rules, regulations or orders of any public authority for the purpose of reviewing, inspecting, approving, checking or filing plans and specifications other than the direct fees charged for the filing of the plans and specifications for the issuance of a building permit shall be paid by the Owner and are not the responsibility of the Design/Builder.

1.1.8.2 The Design/Builder shall investigate and remain fully informed regarding all Project requirements, including Applicable Laws and requirements and procedures of governmental authorities, agencies and others having jurisdiction over the Project (including, without limitation, local interpretation of design and code requirements cited by local authorities in connection with review of the drawings for the Project prior to commencement of construction work activities under such drawings, site approval or other project approval requirements and procedures, building permit requirements, and trade contractor permit requirements).

1.1.8.3 The Design/Builder shall research and identify the estimated time periods associated with the review, approval, application, permitting, inspection and acceptance by, of and to the governmental agencies and authorities and quasi-governmental authorities. The Design/Builder shall include all such time periods in the Pre-Construction Schedule developed under Section 1.3 hereof and the monthly updates submitted under Section 1.3.5.6 hereof.

DESIGN/BUILD AGREEMENT
1.1.8.4 The Design/Builder shall review and, in consultation with Owner, resolve, design issues regarding traffic constraints and land use, including evaluation of site access, existing topography, vegetation, wetlands, building restrictions and easements affecting use of the Project Site and similar matters. All such design resolutions shall be subject to review and approval by Owner.

1.1.8.5 The Design/Builder shall give all notices required by, and otherwise comply with, all Applicable Laws, restrictions, restrictive covenants, and building restrictions applicable to the Project Site or the Project. The Design/Builder, with the assistance of the Owner, shall obtain all necessary authorizations, approvals, permits, licenses and similar documents, from appropriate governmental authorities having jurisdiction over the Project related to, construction, traffic, site drainage, site plan approval, and other approvals required for the Project, subject to Owner's approval of any agreements reached with governmental authorities regarding such matters. The Owner and the Design/Builder shall make all necessary appearances before boards, commissions, authorities and agencies having jurisdiction with respect to permits, and regulatory matters. The Design/Builder shall provide sufficient supporting studies, engineering data, site plans, drawings and other documents required to make application to such boards, commissions and agencies.

1.1.8.6 The Design/Builder shall keep the Owner fully informed regarding the status of approvals and negotiations with governmental agencies and other third parties. The Owner shall be entitled to participate in such negotiations, and the resolution of permitting/approval issues shall be subject to review and reasonable approval by the Owner.

1.1.9 Drawings and Specifications: The “Drawings and Specifications” are the final construction drawings and specifications provided by the Design/Builder and approved by the Owner and the State of Wyoming and all other regulatory agencies having jurisdiction over the Project in accordance with this Agreement setting forth in detail the requirements for the construction of the Project. The Drawings and Specifications shall be complete, coordinated, constructible and otherwise fully adequate for purposes of construction of the Project. The Drawings and Specifications shall take into account all construction work, labor and materials necessary to bring about completion of the Project. The Drawings and Specifications shall include appropriate construction and equipment warranties and guarantees, consistent with the Owner’s Project Criteria (Exhibit B). The Drawings and Specifications and the Project design shall be based on the Owner’s Project Criteria (Exhibit B) and the Preliminary Design Concept (Exhibit C). The Drawings and Specifications shall be developed through the design process outlined in this Section 1.1, shall provide information customarily necessary for the use of building trades, and shall include documents required for the approval of the Project by governmental authorities having jurisdiction over the Project. The drawings and specifications prepared by the Architect shall be subject to the review and approval of the Owner in accordance with this Section 1.1 and the Drawings and Specifications approved by the Owner shall not be modified without the further approval of the Owner.
1.1.10 Design Approval Process:

1.1.10.1 The drawings and specifications for the Project shall be prepared by the Design/Builder and submitted to the Owner for approval in phases as described herein, including the Conceptual Design Phase, Schematic Design Phase, Design Development Phase, and Construction Documents Phase. The required deliverables for each such design phase are described in Exhibit O attached hereto. Based on the Owner’s Project Criteria (Exhibit B) and the Preliminary Design Concept (Exhibit C), the Design/Builder shall prepare, for approval of the Owner, Conceptual Design Documents, including conceptual design documents, outline specifications and definition of building systems sufficient for the development of a Conceptual Design Cost Estimate. Upon the Owner's written approval of the Conceptual Design Documents, the Design/Builder shall prepare, for approval of the Owner, Schematic Design Documents including drawings and specifications and other documents. Upon the Owner’s written approval of the Schematic Design Documents, the Design/Builder shall prepare Design Development Documents for approval of the Owner. The Design/Builder shall complete the Conceptual Design Documents, Schematic Design Documents, Design Development Documents, and Construction Documents in accordance with the Milestone Schedule attached hereto as Exhibit L and the Pre-Construction Schedule.

1.1.10.2 The Owner shall review the drawings and specifications on an on-going basis as they are prepared by the Architect and submitted to the Owner. The Design/Builder shall transit paper copies and electronic files of the drawings and specifications to the Owner in a format acceptable to the Owner and shall present the drawings and specifications to the Owner at regular meetings.

1.1.10.3 Throughout the preparation and finalization of the drawings and specifications, the Design/Builder shall document changes made to the drawings and specifications and review of such changes with the Owner. The Design/Builder shall revise the drawings and specifications being developed by the Design/Builder as required by the Owner, provided that such requested revisions are consistent with the requirements of this Agreement. If any revision required by Owner is not, in the Design/Builder’s opinion, suitable for purposes of the Project, the Design/Builder shall notify the Owner in writing prior to incorporating such revision in the drawings and specifications, and the Design/Builder shall provide a detailed engineering explanation and analysis substantiating such opinion if requested by the Owner.

1.1.10.4 If the drawings and specifications submitted to the Owner for review include a design feature that is contrary to the design intention indicated by the Owner’s Project Criteria (Exhibit B) or the Preliminary Design Concept (Exhibit C), the Design/Builder shall notify the Owner in writing calling attention to such variance and describing the budget and schedule implications. All modifications to or variances from the Owner’s Project Criteria or the Preliminary Design Concept shall be subject to the written approval of the Owner.
1.10.5 During the design meetings, Design/Builder shall be responsible for documenting changes requested by the Owner and the Architect’s response in a set of “Owner Comment Sheets” maintained by the Design/Builder. The Owner Comment Sheets shall be maintained by Design/Builder for a period of one (1) year after Substantial Completion of the Project and the Design/Builder shall provide a copy of the Owner Comment Sheets and other design records to the Owner promptly upon request of the Owner at any time.

1.10.6 The Design/Builder shall comply with the additional requirements and procedures set forth in this Agreement for the design and engineering of the Project and the preparation, review and approval of the Drawings and Specifications for the Project.

1.10.7 The Design/Builder shall provide the Owner with five (5) paper copy sets and an electronic file, in format acceptable to the Owner, of the final Drawings and Specifications approved by the Owner and the State of Wyoming.

**1.11 Record Drawings:** Upon completion of construction, the Architect shall prepare and assemble a single set of reproducible record drawings of the as-built conditions of the constructed Project and showing locations (and elevations for underground work) of all concealed work (including mechanical, electrical and other systems and components, duct work, plumbing lines and similar work items, as customarily included by professional architects in record drawings for similar projects) and recording any variations from the Drawings and Specifications, working drawings, engineering drawings or Shop Drawings. Such record drawings shall be in electronic format designated in the Owner's Project Criteria (Exhibit B) or otherwise reasonably acceptable to the Owner. In addition, the Design/Builder shall furnish two (2) copies and a reproducible set of the record drawings. At the discretion of the Owner, marked-up drawings furnished by the Design/Builder may be used and, in such cases, the Architect’s record sets shall be so noted and referenced. Such reproducible record drawings shall be completed within ninety (90) days after Substantial Completion.

**1.12 Performance of Design and Engineering Services:**

1.12.1 Subject to the limitation on the Design/Builder’s liability in Article 11 hereof, the Design/Builder shall be responsible to Owner for loss, damage and expense suffered by it on account of any negligent error or omission of Design/Builder or the Architect or the Design/Build Subcontractor. The Design/Builder, Architect, Design Builder’s other consultants, and the Design/Build Subcontractor shall each exercise that degree of care, skill and judgment customarily practiced by professional architects and engineers performing professional services on projects of scope and complexity comparable to the Project.

1.12.2 The provisions of this Section 1.12 shall survive any termination of this Agreement.
1.2 Pre-Construction Services: The Design/Builder shall provide Pre-Construction Services during the preparation of the drawings and specifications. Pre-Construction services shall consist of consulting with, advising, assisting and making recommendations to the Owner and consultants on all aspects of planning for the construction of the Project so that the Project can be (i) constructed at the lowest possible cost consistent with the Owner’s quality requirements as described in the Contract Documents; and (ii) completed and ready for occupancy at the earliest reasonable time. Such services (hereinafter referred to as “Pre-Construction Services”) shall include, but are not limited to, the following:

1.2.1 Project Phasing and Conceptual Schedule: The Design/Builder shall consult with the Owner regarding the Owner's overall schedule requirements for the development of the Project, including, without limitation, time periods for review and approval of submittals by governing agencies. The Design/Builder shall make recommendations for alternative phasing strategies.

1.2.2 Review of Drawings and Specifications: The Design/Builder shall review, and provide input on, all plans and specifications being developed by the Architect, consultants and Design/Build Subcontractor including, but not limited to architectural, civil engineering, mechanical, electrical and structural drawings and specifications; make recommendations with respect to such factors as site conditions, foundations, selection of systems and materials, construction feasibility, costs, suggested economies, availability of labor and materials, time requirements for procurement, installation and construction; and verify the completeness and coordination of the drawings and specifications.

1.2.3 Value Engineering and Specifications: The Design/Builder will evaluate various systems and materials to assure the maximization of economies in initial costs, life cycle maintenance and operational costs and market availability and to help the Owner obtain the best value for the amount spent by the Owner for the Project. All value opportunities, including cost and schedule impact, will be documented by the Design/Builder for review and approval by the Owner. If requested by the Owner, the Design/Builder shall evaluate alternative construction methods and construction sequencing for the most cost beneficial means of implementing the design requirements. The results of these studies and accompanying recommendations will be presented by the Design/Builder to the Owner.

1.2.4 Contract Documents: The Design/Builder shall review drawings and specifications for the Project with the Architect and the consultants and make recommendations to the Owner and Architect regarding the division and phasing of Work. The Design/Builder shall consider such factors as type and scope of work, time of performance, availability of labor and materials, community relations, factory versus on-site production costs, size, and other limiting factors. The Design/Builder shall determine the Estimated Construction Cost and scope of the Work to be included in each division. The Design/Builder’s participation in the review of drawings and specifications may continue beyond the commencement of construction because of the phasing of the construction of the Project.

1.2.5 Interfacing Portions of the Work: The Design/Builder shall review drawings, specifications and schedules for the Project with the Architect and the consultants so as to
identify areas of possible omissions, conflicts and overlapping work or jurisdictions among (i) the drawings and specifications prepared by the Architect, consultants and Design/Build Subcontractor; (ii) the various bid packages and phases of the Work; (iii) the Subcontractors on the job; and (iv) Work by the Owner’s separate Suppliers and contractors so that the work on the Project may be advanced and completed as expeditiously as reasonably priced.

1.2.6 Job Site Facilities: The Design/Builder shall review the Specifications for the Project to confirm that they contain provisions for (i) all temporary facilities necessary to enable Subcontractors to perform their work, and provisions for all of the job site facilities necessary to manage, inspect and supervise construction, without unnecessary duplication; (ii) safeguards for safety and protection, and otherwise comply with applicable laws, ordinances, rules, regulations, codes or orders of any authority bearing on the performance of the Work to the extent that the Design/Builder, with the exercise of due care, can reasonably do so; and (iii) all temporary facilities and safeguards to allow for the Owner’s occupancy if construction is performed in separate phases.

1.2.7 Labor: The Design/Builder shall provide an analysis of the types and quantity of labor required for the Project and review the availability of appropriate categories of labor required for critical phases to the end that the construction of the Project may proceed without interference by labor disputes. The Design/Builder shall analyze the labor requirements and costs inherent to Owner’s early occupancy and continued occupancy of parts of the Project and shall advise the Owner of labor situations which would create duplication of effort, disputes, unnecessary or unproductive costs. The Design/Builder shall be responsible for costs and delays due to work slowdowns, work stoppages and other labor disputes.

1.2.8 Preparation of Cost Estimates: The Owner has established a budget amount ("Project Budget") of Sixty Million ($60,000,000) Dollars for the cost for the Project, which Project Budget includes all costs to complete the Project excluding only the Excluded Costs listed in Section 3.9 hereof. The Design/Builder shall be responsible for preparation of cost estimates ("Cost Estimates") for the Project based upon the plans developed by the Architect and the consultants. The Cost Estimates shall include all costs to design, construct, equip and complete the Project, excluding only the Excluded Costs. The Design/Builder shall prepare a preliminary Cost Estimate based on the Conceptual Design Documents approved by the Owner within six (6) weeks after the Owner approves the Conceptual Design Documents. Thereafter, the Design/Builder shall periodically revise and update the preliminary Cost Estimate as the design process continues and more complete information and specifications are developed. Updated Cost Estimates shall be prepared at upon completion of Concept Drawings, Design Development and Working Drawings and shall be submitted to Owner within three (3) weeks after receipt of such plans. During the Concept Design Phase, Design Development Phase and Construction Documents Phase, the Design/Builder will receive updated drawings from the Architect and the consultants and shall review such drawings for any changes which could affect Project costs. The Design/Builder shall consult with the Architect on an on-going basis to confirm the assumptions being used by the Design/Builder to prepare the Cost Estimates. The Design/Builder shall periodically revise its Cost Estimate from time to time and within thirty (30) days after the drawings and specifications for each design phase have been approved by the Owner and shall notify Owner and Architect whenever it appears that the Cost Estimate amount
will exceed the Project Budget. All Cost Estimates shall be prepared by persons who have qualified backgrounds in each of the building trades, mechanical trades and electrical trades. Cost Estimates shall be prepared in detail and in a format acceptable to the Owner and shall include appropriate contingencies as approved by the Owner.

1.2.9 Cost Consultation: In addition to preparation of statements of Estimated Construction Costs, the Design/Builder shall provide a cost consultation service from the duration of this Agreement and shall prepare preliminary or partial cost estimates as requested in support of the design process as well as cost estimates for all early procurement of equipment and materials; for all building systems components contracts; for all out-of-sequence construction work; for all special work or preparations necessary for Owner’s continued occupancy of the Project if construction is completed in phases; for relocation of Owner-furnished equipment or systems; and for Bid Packages prior to issuance for bidding, in adequate time to allow for adjustment, if required.

1.2.10 Long Lead Time Procurement: The Design/Builder shall advise Owner and Architect as to advance procurement requirements necessary to meet the Schedule and/or effect cost savings. If requested by Owner, the Design/Builder shall expedite delivery, accept delivery and provide storage, protection, and security on items purchased by the Owner until such items are installed. The costs to provide such storage, protection, and security shall be included in the Construction Cost, as defined in Section 3.14 hereof.

1.3 Project Supervision, Coordination and Management: The Design/Builder shall provide competent supervision, coordination and management of the Project, including, without limitation, the following:

1.3.1 Supervision:

1.3.1.1 The Design/Builder shall maintain a competent supervisory staff for the Project for the coordination, scheduling and administration of the Work. Exhibit M is a personnel chart identifying the Design/Builder’s Project personnel, the title or job classification of each and the hourly or monthly rates for each and for the categories of Design/Builder’s personnel (which rates are inclusive of all wages, salaries, benefits, taxes and insurance). Prior to commencement of construction, the Design/Builder shall submit to the Owner for approval the names (with resumes) of the construction staff proposed by the Design/Builder for the Project. Exhibit M shall be revised to include the Design/Builder’s construction personnel approved by the Owner. Unless such personnel leave the employ of the Design/Builder or any affiliated entity, no appointment, substitution or reassignment of any of the personnel will be made by the Design/Builder without the prior written consent of the Owner, which consent shall not be unreasonably withheld. In connection with any proposed appointment, substitution or reassignment, the Design/Builder shall submit to the Owner a detailed justification supported by the qualifications of any proposed individual. The Design/Builder shall be responsible for the adequacy of the Subcontractors’ personnel and equipment, the availability of necessary materials and supplies and all other action necessary to maintain the CPM Schedule to be prepared by the Design/Builder under Section 1.3.4 hereof.
1.3.1.2 The Design/Builder acknowledges that a high level of experience, skill and dedication will be required of the supervisory staff at the site in order to achieve the objectives of timely completion of the Project, within the Guaranteed Maximum Price and the Owner’s Project requirements. The Design/Builder represents that its supervisory staff is so experienced and skilled and will be dedicated to achieving such objectives.

1.3.1.3 Design/Builder shall employ only those Subcontractors who are duly licensed and qualified to perform the Work consistent with the Contract Documents. All Subcontractors shall be subject to the approval of the Owner in accordance with Section 1.3.3 hereof.

1.3.1.4 As more particularly described in the General Conditions, the Design/Builder shall participate with the Owner and, if the Owner so elects, the Architect, in performing full Project reviews as well as pre-final and final inspection. The purpose of such reviews is to insure that the materials provided and Work performed are in accordance with the Drawings and Specifications and other Contract Documents and that the Work on the Project is progressing on schedule.

1.3.1.5 The Design/Builder shall refer all questions for interpretation of the meaning and intent of the Drawings and Specifications to the Architect in writing with a copy to Owner. Such interpretations shall be subject to the approval of the Owner. The Design/Builder shall comply, and cause all Subcontractors to comply, with all interpretations rendered by the Architect when approved by the Owner.

1.3.2 Coordination: The Owner intends to engage the separate contractors ("Owner's Separate Contractors") listed on Exhibit N attached hereto. The Design/Builder shall establish procedures for coordination among the Owner, the Architect, the Design/Builder, the Subcontractors and the Owner's Separate Suppliers, Owner’s Separates Contractors and Owner’s Separate Consultants. The Design/Builder shall fully cooperate with the Owner’s Separate Contractors and shall coordinate the work activities of the Subcontractors and the Owner’s Separate Contractors with the intent that the Project can be completed on an orderly and efficient basis and so that delays and reconstruction can be avoided. The Design/Builder shall not be responsible for the acts or omissions of the Owner's Separate Contractors and shall not be responsible for the performance of installation work by the Owner's Separate Suppliers.

1.3.3 Award of Subcontracts and Purchase Orders:

All Subcontracts and Purchase Orders for the Project shall be awarded in accordance with the following procedures:

1.3.3.1 The Design/Builder shall consult with the Owner regarding the Owner's corporate group procurement program and all purchase orders for the Project shall be awarded in accordance with such program so as to maximize the benefit to the Owner.
1.3.3.2 The Design/Builder shall solicit separate bids for all of the Work for each separate phase of the Project, except for supervision and the furnishing of General Conditions Cost items (including, without limitation, incidental labor to construct barricades), so as to achieve maximum competition among qualified bidders in order to obtain the most competitive price for the Work. Bids and proposals will be based on payment of prevailing wage rates (as determined by the Department of Labor) to all laborers performing trade work for the Project. All bidding shall be conducted on an "open book" basis, and the Owner shall be permitted to participate in all discussions and negotiations between the Design/Builder and the bidders. In soliciting bids:

(i) Bid packages shall be distributed to bidders on the Approved Bidder's List, as defined below, in sufficient time to enable prospective bidders to prepare and submit competitive bids before the time set for private opening of bids.

(ii) Except as may be approved in writing, in advance by Owner, neither the Design/Builder nor any entity affiliated with the Design/Builder shall submit any bid on the Project. If the Design/Builder desires to perform a portion of the construction work with its own forces, the Design/Builder shall submit a written request to the Owner at least twenty-one (21) days prior to the issuance of the subcontractor bid package for such portion of the Work, setting forth in detail the proposed process for the bidding and oversight of such work by an independent consultant, at no cost to the Owner, to assure the proper management and evaluation of any self-performed work activities. If the Owner agrees that the Design/Builder (or affiliate of the Design/Builder) will be permitted to submit a bid(s) for certain portion(s) of the Project, such bid, together with the unopened bids for such portion of the Project submitted by other bidders, shall be submitted directly to the Owner. If the Owner agrees that the Design/Builder (or affiliate of the Design/Builder) will be permitted to perform a portion of the construction work with its own forces, the compensation for such self-performed work shall exclude the Design/Builder’s supervision costs and other General Conditions Costs.

(iii) Unless the Owner expressly agrees otherwise in advance, the scope of the Subcontracts and Purchase Orders shall not include the provision of General Conditions items.”

1.3.3.3 The Design/Builder shall furnish to the Owner, in writing, the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed as bidders for each of the major trades and other principal portions of the Work (the "Proposed Bidders List"). The Proposed Bidders List for each portion of the Work shall be delivered to the Owner at least fifteen (15) days prior to solicitation of bids for that portion of the Work.

1.3.3.4 Within fifteen (15) days after the Owner receives the Proposed Bidders List, the Owner will advise the Design/Builder whether the Owner desires any proposed person or entity to be deleted from or added to the Proposed Bidders List and the Proposed Bidders List shall be revised accordingly (the Proposed Bidders List, as so revised, is hereinafter referred to as the "Approved Bidders List").
1.3.3.5 Within thirty (30) days after the Construction Drawings and Specifications for the Project, or for a designed portion of the Project, have been completed by the Design/Builder and the Owner has authorized the Design/Builder to proceed with bidding for such portion of the Project, the Design/Builder shall solicit bids for the Work from all subcontractors and suppliers on the Approved Bidders List. No allowances shall be included in such bids unless approved in writing by the Owner.

1.3.3.6 At the Design/Builder’s discretion, the Design/Builder shall conduct pre-bid conferences to familiarize bidders with the bidding documents, management techniques, phasing and any special systems, materials, methods or requirements. The Owner and the Architect shall be invited to all such conferences. The Design/Builder shall insure that all bidders are familiar with the special requirements of the Contract Documents.

1.3.3.7 Duplicate copies of each bid shall be submitted to the Design/Builder and the Owner simultaneously. The Design/Builder shall review all bids with the Owner and advise the Owner whether the bids are responsive and acceptable in the context of the total Project requirements and whether the sub-subcontractors and material suppliers proposed by the subcontractors are acceptable.

1.3.3.8 The Design/Builder shall cooperate with the Owner, the Architect and the Owner's Consultants in reviewing and analyzing any alternates, substitutions or other variations proposed by any bidder.

1.3.3.9 At the Design/Builder’s discretion, the Design/Builder shall conduct pre-award conferences, to be attended by the Owner and the Architect, for the purpose of confirming the apparent successful bidder's understanding of the Contract Documents, discussing alternates, substitutions or other variations proposed by bidders; clarifying bid prices; or any other purpose designated by the Owner. The Design/Builder shall insure that the apparent successful bidder is familiar with the special requirements of the Contract Documents.

1.3.3.10 The amount of the Subcontract or Purchase Order shall be revised with the approval of the Owner pursuant to any pre-award conferences, negotiations between the Design/Builder and any bidder, voluntary reductions or otherwise (the "Subcontract Amount").

1.3.3.11 The Subcontracts and Purchase Orders shall be awarded to the bidders recommended by the Design/Builder and approved by the Owner. No change shall be made to the amount or scope of work under any of the Subcontracts and Purchase Orders approved by the Owner in accordance with this Section 1.3.3.11 hereof without the Owner’s prior written approval. Any permitted re-bidding of the Work will be done on an “open book” basis with full disclosure to, and participation by the Owner. All cost savings, if any, resulting from such re-bidding shall belong to the Owner.
1.3.4 Cost Control System: The Design/Builder shall implement a management control system for use in monitoring and meeting the objectives of the Project in a timely, economical and acceptable manner using both manual and automated procedures to support such functions as planning, organizing, scheduling, budgeting, reporting construction progress and expenditures, accounting, documentation, identifying variances and problems, decision-making, and decision implementation as the Owner may require. The data provided shall be timely and shall be responsive to the needs of the Owner at all levels, and must be fully capable of providing a sound basis for management decisions. All documentation prepared by the Design/Builder will be at a level of detail to permit adoption and maintenance by an organization other than the Design/Builder. The services of the Design/Builder with respect to the management control system shall include, but shall not be limited to, the following:

1.3.4.1 Develop a detailed report of projected Construction Cost and, on a monthly basis, revise and refine the report of projected Construction Cost as construction proceeds and as required to incorporate approved changes to the Project as they occur. The report shall contain a summary listing of all change orders and pending changes and their cost or estimated cost.

1.3.4.2 Produce a complete, realistic and detailed cash requirements analysis for the entire Project, including time-phased scheduling and resource (manpower, equipment, materials, etc.) allocations which fully meet the stated cost and schedule objectives and revise and refine the cash requirements analysis on a monthly basis as construction proceeds and as required to incorporate approved changes to the Project as they occur.

1.3.4.3 Identify variances between the Guaranteed Maximum Price and the Design Fee, Design Reimbursable Expenses, Pre-Construction Services Fee, Construction Cost, General Conditions Costs and Design/Builder's Fee as most recently revised, such variances being cost overruns (underruns). Explain the reason for any cost overruns and underruns. Maintain a record of charges allowed against the Contingency under Section 3.4.1 hereof.

1.3.4.4 Display cost overruns (underruns) in both detailed and in summary form.

1.3.4.5 Provide documentation of all changes made in the Design Fee, Design Reimbursable Expenses, Pre-Construction Service Fee, Guaranteed Maximum Construction Cost, General Conditions Costs and Design/Builder's Fee so that complete traceability is maintained from the original amounts in the Guaranteed Maximum Price. Provide cash requirements reports, forecasts and other reports as reasonably requested by the Owner.

1.3.4.6 Provide for the continuous collection and monthly collation of data on schedule progress and costs.

1.3.5 Schedule:
1.3.5.1 Based on the Milestone Schedule attached hereto as Exhibit L, the Design/Builder shall prepare, and submit to the Owner for approval, a Pre-Construction Schedule, including time periods for completion of the schematic design documents, design development documents, and construction drawings and specifications by the Architect, review and approval of drawings and specifications by the Owner, coordination with the Owner's Separate Consultants and Owner's Separate Suppliers, issuance of permits and approvals by authorities, and other Project activities.

1.3.5.2 The Milestone Schedule attached hereto indicates the durations for construction activities for the Project. The construction duration for the Project shall commence when the final Drawings and Specifications have been approved by the Owner, the State of Wyoming and all other regulatory agencies having jurisdiction over the Project and the building permit and all other necessary permits and approvals have been issued for the Project, and the Owner has issued written notice to the Design/Builder to proceed with construction.

1.3.5.3 Within thirty (30) days after commencement of construction of the Project, the Design/Builder shall prepare a detailed, computerized schedule (the “CPM Schedule”) using Primavera P3 computer software. The durations and milestones set forth on Exhibit L attached hereto govern and the CPM Schedule shall be prepared so as to meet such durations and milestones. The Design/Builder shall submit to the Owner a CPM Schedule satisfying the requirements of this Section 1.3.4.3 and the following:

(i) The CPM Schedule shall include a detailed breakdown of construction activities. Trade work will be broken into appropriate detailed activities. After the description of each activity, there shall be a notation as to the type of contractor to perform the activity (e.g., electrical, plumbing, etc.) unless the type of contractor is evident from the description of the activity.

(ii) The CPM Schedule shall portray the specific plan of operation proposed by the Design/Builder including construction sequences and phasing.

(iii) The CPM Schedule shall include times for submittal, review and approval of Shop Drawings, Product Data and Samples for critical long-lead items.

(iv) The CPM Schedule shall include activities of the Owner, including plan and submittal review schedule and expected response dates, and the Owner’s Separate Contractors and any other factors or conditions disclosed to the Design/Builder by the Owner.

(v) The CPM Schedule shall include the Owner's occupancy requirements as provided by the Owner, as adjusted from time to time.

1.3.5.4 Upon submission of the CPM Schedule by the Design/Builder, the Design/Builder shall schedule a meeting with the Owner (and any separate contractors, if
designated by the Owner) to discuss the CPM Schedule and resolve any conflicts with respect thereto. In all events, the durations in Exhibit L shall govern.

1.3.5.5 The Design/Builder shall be responsible to obtain and update, on a regular basis, all information (such as delivery dates) which affects the length of specific activities on the CPM Schedule and shall make such information available at any time for inspection by the Owner.

1.3.5.6 At the end of the first month following issuance of the approved CPM Schedule and every month thereafter (or at such lesser intervals if reasonably deemed necessary by the Owner), the Design/Builder shall prepare an updated CPM Schedule showing the actual status of the Project as of the date of the updated CPM Schedule. The updated CPM Schedule shall be related to the original CPM Schedule to facilitate identification of variances therefrom (activity descriptions shall not be redefined on such updated CPM Schedule).

1.3.5.7 In the event (i) the Design/Builder receives a notice of a change in the Agreement or extra work to be performed, or (ii) the Design/Builder becomes aware of any conditions which are likely to cause or are actually causing delays, the Design/Builder shall notify the Owner in writing of the effect, if any, as reasonably determined by the Design/Builder, of such changes, extra work or other conditions within any specific time limits set forth in this Agreement (and if no specific time limits are set forth, within ten (10) working days) and shall state in what respects, if any, as reasonably determined by the Design/Builder, the CPM Schedule should be revised with the reasons therefor. Nothing set forth in this Section 1.3.5.7 shall modify or supersede the provisions of Article 8 of the General Conditions of the Design/Build Agreement.

1.3.6 Owner-Furnished Equipment: The Owner will issue purchase orders for the new Owner Furnished Equipment items listed on Exhibit H to be installed in the Project by the Design/Builder. The Design/Builder shall consult with the Owner regarding the delivery and installation requirements for the Owner Furnished Equipment and shall assist the Owner with the procurement and ordering of such items. The Design/Builder shall coordinate the schedule and monitor the delivery of the Owner Furnished Equipment and shall assist the Owner in the inspection of such items upon delivery and advise the Owner regarding any apparent damage, non-conforming or missing items, or other deficiencies. The Design/Builder shall provide handling, off-loading, storage, protection, assembly (if required), installation and inspection, start-up and close-out services in connection with Owner Furnished Equipment. The Design/Builder warrants that the installation of the Owner-Furnished Equipment shall be free from defects in workmanship, but the Design/Builder does not warrant that the Owner-Furnished Equipment items will be free from inherent defects. The Design/Builder shall perform the Work for the Project so as to avoid violating the conditions of the warranties provided by others with respect to the Owner Furnished Equipment.

1.3.7 Prevailing Wages: The Owner requires payment of prevailing wage rates for work performed for the Project. The Design/Builder shall implement procedures approved by the Owner to verify that all Subcontractors and Sub-Subcontractors of every tier are paying
prevailing wage rates (as established by the Department of Labor) to all laborers performing construction of the Project. The Design/Builder shall check payroll records as required to substantiate the payment of prevailing wage rates.

1.3.8 Shop Drawings, Product Data and Samples: Within thirty (30) days after commencement of construction, the Design/Builder shall prepare and submit to the Owner a Shop Drawing/Submittal submission schedule for each Subcontractor. The time periods in such schedule for the Owner's review of Shop Drawings, Product Data, Samples and other Submittals shall be subject to the Owner's reasonable approval. The Design/Builder shall establish and implement procedures to be followed for expediting the processing and approval of Shop Drawings, Product Data and Samples, on an orderly basis as required by the approved Shop Drawing submittal schedule. The Design/Builder shall maintain a log of all Shop Drawings from original submissions to final drawings representing the facilities “as-built.” A minimum of three (3) copies of each Shop Drawing, Product Data and other submittals and revised submittals shall be furnished to the Owner.

1.3.9 Labor Relations: The Design/Builder shall develop and administer an effective labor relations program for the Project and shall employ, and require its Subcontractors to employ, only compatible labor with the goal that the Work may proceed without interference from labor disputes.

1.3.10 Progress Meetings: The Design/Builder shall schedule and conduct meetings to be attended by the Owner, the Architect, the Subcontractors to discuss such matters as procedures, progress, problems, scheduling and safety. Such meetings with the Owner shall be scheduled as follows:

1.3.10.1 Weekly meetings between Owner's and Design/Builder's on-site representatives;

1.3.10.2 Monthly meetings with the Owner and the Architect; and

1.3.10.3 Additional periodic meetings with the Owner and the Architect requested by the Owner.

1.3.11 Project Safety Programs: The Design/Builder shall develop, review with Owner and implement a safety program for the Project intended to promote a commitment to the safety of both persons and property on the Project. The program shall include, but not be limited to, measures to be taken to maximize the safety consciousness of Subcontractors and to require that Subcontractors each have their own safety programs. Subcontractor safety policies will be reviewed by the Design/Builder and the Design/Builder will provide input for improvements and assist the Subcontractors in coordinating their safety efforts with those of other Subcontractors and the overall safety program. The Design/Builder shall, in the Subcontracts, require the Architect and each Subcontractor to be responsible for the safety of their personnel and operations, and for compliance with the recommendations of MIOSHA and OSHA as well as all other applicable laws and ordinances relating to safety. The Design/Builder does not assume
from the Subcontractors the Subcontractor’s responsibility for safety; provided, however, as between the Owner and the Design/Builder, the Design/Builder shall be responsible for safety.

1.3.12 Payments to the Subcontractors: The Design/Builder shall process all progress payments to the Architect, Subcontractors, laborers and materialmen to assure full compliance with (i) applicable mechanic’s or construction lien acts, builders’ trust fund statutes and similar legislation; and (ii) the requirements of the Contract Documents. Provided that the Owner has paid the Design/Builder in accordance with the Contract Documents, the Design/Builder shall cause the removal by statutory bond or otherwise of any liens which may be filed at any time.

1.3.13 Changes in the Work:

1.3.13.1 The Design/Builder shall make recommendations to the Owner for such changes in the Work as the Design/Builder may consider necessary or desirable.

1.3.13.2 The Design/Builder shall review all requests for changes, including the Drawings and Specifications therefor, consult with the Architect if necessary and submit recommendations to the Owner in accordance with Sections 3.5, 3.7 and 3.8 hereof and Article 12 of the General Conditions.

1.3.13.3 The Design/Builder shall implement Change Order procedures mutually agreed upon by the Owner and Design/Builder and shall document and administer the processing of Change Orders, including applications for extensions of construction time from the separate Subcontractors, and maintain a Change Order summary with complete information regarding each change. The Owner shall be provided with a copy of such Change Order summary promptly upon request.

1.3.14 Inspections:

1.3.14.1 The Design/Builder shall assist the Owner’s personnel when they perform inspections and the Design/Builder or the Architect shall furnish a detailed written report to the Owner of (i) observed discrepancies, deficiencies and omissions in the Work performed by any Subcontractor and (ii) the actions being taken to correct such discrepancies, deficiencies and omissions in the Work. Inspections shall be performed by the Architect at least monthly and as otherwise reasonably required.

1.3.14.2 With respect to inspections performed by governmental authorities and the Owner's independent testing agent, the Design/Builder shall consult with the Owner regarding reports issued with respect to such inspections and shall submit to the Owner a detailed written response regarding the actions being taken to correct any discrepancies, deficiencies and omissions in the Work noted in such reports.

1.3.15 Start-up Program: The Design/Builder shall assist the Owner in the start-up and check-out of the installed equipment and systems included in the Contract Documents as the facilities comprising the Project are completed and occupancy occurs. The Design/Builder shall provide the services of manufacturers’ representatives at the Project Site to provide training to
the Owner regarding operation and maintenance of equipment and systems included in the Contract Documents. The Design/Builder shall coordinate start-up and check-out activities with respect to Owner-Furnished Equipment.

1.3.16 Recommendations and Communications: All recommendations and communications by the Design/Builder to the Owner that will affect the terms and conditions of this Agreement or the Project as to cost, time, quality or Project scope, shall be made or confirmed in writing.

1.4 Project Documents:

The Design/Builder shall provide services with respect to Project documents, including without limitation, the following:

1.4.1 Job-Site Records: The Design/Builder shall keep accurate and detailed written records of the progress of the Project during all stages of construction, which shall be open for inspection by the Owner at all reasonable times. The Design/Builder shall maintain copies of all approved Shop Drawings and other Subcontracts, Submittals, test reports, Change Orders, schedules, and similar documents. If requested by the Owner, the foregoing records shall be turned over to the Owner at the completion of construction or termination of this Agreement as a condition of payment to the Design/Builder.

1.4.2 Field Operations Manual: The Design/Builder shall prepare and furnish to Subcontractors, Architect and Owner a field operations manual to implement the administration of the Work to be performed under this Agreement. The manual shall include the following data:

1.4.2.1 Directory of Personnel.

1.4.2.2 Owner’s standard conditions and requirements for the performance of construction work at the Owner’s facilities.

1.4.2.3 Contractor’s Special Conditions for Subcontractors.

1.4.2.4 Coordination of Testing Procedures.

1.4.2.5 OSHA and MIOSHA Requirements.

1.4.2.6 Additional Instructions.

1.4.2.7 Safety Program.

1.4.2.8 Equal Employment Requirements.

1.4.3 As-Built Drawings: The Design/Builder shall keep continuously current marked sets of working drawings, Drawings and Specifications reflecting “as built” conditions. Each
Subcontractor shall be required to certify compliance with the foregoing requirement on a monthly basis as a condition of progress payments to such Subcontractor.

1.4.4 Guarantees, Warranties and Operating Manuals:

1.4.4.1 As a condition of final payment, the Design/Builder shall obtain, collate, summarize and forward to the Owner copies of all guarantees and warranties from the manufacturers of the materials and equipment incorporated in the Project, excluding Owner-Furnished Equipment installed by the Design/Builder. The Design/Builder shall obtain and forward to the Owner all operating manuals from the manufacturers of equipment incorporated in the Project, excluding Owner-Furnished Equipment installed by the Design/Builder. The Design/Builder shall submit to the Owner copies of all permits and approvals for the Project.

1.4.4.2 As a condition of final payment, the Design/Builder shall prepare and submit to the Owner for approval a maintenance plan, stating recommended maintenance operations and frequency. The Plan shall include reduced format plan drawings and details as well as vendor/contractor submittals for materials and equipment as appropriate to inform the maintenance activities.

1.4.5 Minutes: The Design/Builder shall take, transcribe and distribute minutes of all conferences and meetings attended by the Design/Builder and the Owner.

1.5 Construction Services: The Design/Builder shall construct the Project in a good and workmanlike manner in accordance with the Drawings and Specifications and all requirements of this Agreement and other Contract Documents. The Design/Builder shall perform the following additional construction services:

1.5.1 Permits and Licenses: Except permits to be obtained by the Owner listed on Exhibit K hereto, the Design/Builder shall obtain all necessary construction permits and licenses, and similar authorizations from governmental authorities required in order for the Design/Builder to perform its activities hereunder, and shall give all notices required by, and otherwise comply with, all applicable laws, ordinances, rules, regulations and restrictions.

1.5.2 Temporary Job-Site Facilities: The Design/Builder shall provide or cause the appropriate Subcontractor to provide or otherwise make provisions for the temporary job-Site facilities necessary to enable the Subcontractors to perform their respective portions of the Work and to enable the Design/Builder to manage construction.

1.5.3 Commissioning Services: The Design/Builder shall provide overall management of the commissioning services for the Project in consultation with the Owner's Commissioning Agent for MEP Systems and IS Systems and the Owner's Mechanical System Balance Consultant. The Design/Builder shall develop a comprehensive commissioning plan for approval of the Owner incorporating the recommendations of the Owner's Commissioning Agent for MEP Systems and IS Systems, the Owner's Mechanical System Balance Consultant, and the fire protection, fire alarm, medical, gas and elevator consultants and suppliers. The
Design/Builder shall coordinate the services of the Design/Builder, the Architect, the Design/Builder's other consultants as applicable, the Owner's independent Commissioning Agent for MEP Systems and IS Systems commissioning, and the Owner's Mechanical System Balance Consultant.

1.5.4 Warranty Inspection: Eleven (11) months after Substantial Completion of the Project, the Architect shall (i) visit and review the Project in conjunction with the Design/Builder and the Owner, (ii) advise the Owner and Design/Builder, in writing, of any evidence of faulty or non conforming materials or workmanship observed during such visit; (iii) make recommendations regarding corrective work required; and (iv) re-review within a reasonable time or times after each of the foregoing visits to verify that all corrective work has been satisfactorily completed.

1.5.5 Claims: In the event any claim, including appeals to the Owner, is made or any legal action brought in any way relating to the Project, the Design/Builder shall diligently render, at no cost to the Owner, any and all assistance which may be required, including preparation of written reports with supporting information necessary to resolve disputes.

ARTICLE 2

TIME FOR PERFORMANCE

2.1 Time is of the Essence: Time is of the essence of this Agreement.

2.2 Commencement:

2.2.1 The design for the Project shall be completed in phases as follows:

2.2.1.1 Conceptual Design Phase: The Design/Builder shall continue with the design and engineering and preparation of the Conceptual Design Documents including Conceptual Design Documents sufficient for the development of a Conceptual Design Cost Estimate and other drawings and specifications. The Owner and Design/Builder intend that the drawings and specifications prepared during the Conceptual Design Phase will be in a format that would allow the design work to be easily resumed at a later date if the Owner suspends work for the Project at the completion of the Conceptual Design Phase. The Design/Builder shall complete the Conceptual Design by February 9, 2009.

2.2.1.2 Design Completion Phase: Upon completion of the Conceptual Design Phase and written authorization of the Owner to proceed with the completion of the drawings and specifications for the Project, the Design/Builder shall complete the Drawings and Specifications for the Project in accordance with this Agreement.

2.2.2 Design/Builder agrees to commence construction of the Project and begin performance of the other construction services required under this Agreement upon approval of
the Drawings and Specification by the Owner and the State of Wyoming, issuance of the building permit for the Project, and written notice from the Owner to proceed with construction.

2.2.3 The Owner shall have no obligation to issue a notice to proceed with the Design Completion Phase, the bidding and award of subcontracts, or the construction of the Project.

2.3 Progress: The Design/Builder shall cause the Design/Builder's services and Work to be performed in accordance with the Milestone Schedule (Exhibit L), the CPM Schedule approved by the Owner, and the Pre-Construction Schedule approved by the Owner.

2.3.1 The Design/Builder shall be responsible for delays to the Work resulting from errors, omissions or other deficiencies in the Drawings and Specifications or failure of the design and/or engineering for the Project to meet the requirements of this Agreement.

2.3.2 Time extensions shall not be granted except as expressly provided for in Article 8 of the General Conditions and then only when a delay to the Work affects an activity that is on the critical path or, because of such delay will become a critical path activity, as substantiated by the CPM Schedule.

2.3.3 If the Design/Builder shall fail to adhere to the CPM Schedule, as revised pursuant to this Agreement, promptly upon written request of the Owner, the Design/Builder shall submit to the Owner for approval, a schedule recovery plan demonstrating in detail how the Design/Builder proposes to bring the Work back on schedule. If necessary, the recovery plan will include performance of work after regular hours, including Saturdays, Sundays and holidays and/or additional crews. The schedule recovery plan shall be subject to the approval of the Owner, which approval shall not be unreasonably withheld so long as the schedule recovery plan provides a means to promptly bring the Work back on Schedule, does not require a change unacceptable to the Owner in the scheduled dates and durations on the CPM Schedule for activities of the Owner, Owner's Separate Consultants, Owner's Separate Suppliers and Owner's Separate Contractors. The Design/Builder shall comply with the schedule recovery plan as approved by the Owner and take such additional actions as may be required to bring the Work on schedule, without additional cost or expense to the Owner, including claims for inefficiency due to the use of overtime or additional labor. In all events, if the Design/Builder shall fail to adhere to the CPM Schedule, as revised pursuant to this Agreement, if directed to do so by the Owner, the Design/Builder shall promptly accelerate the performance of the Work as necessary to bring the Work back on schedule, and the costs for such acceleration shall be charged to the Contingency under Section 3.4 hereof or, if the Contingency amount is inadequate to cover such costs, shall be paid by the Design/Builder.

2.4 Completion: The Project shall be completed in accordance with the CPM Schedule and Substantial Completion shall be achieved within twenty (20) calendar months after the date for commencement of construction under Section 2.2.2 hereof, as adjusted in accordance with this Agreement (the "Contract Time"). At the time of Substantial Completion, the Design/Builder shall prepare a single consolidated punchlist for the Project incorporating punchlists developed or revised separately by the Design/Builder, Architect and Owner. Final Completion shall be
achieved within sixty (60) calendar days after Substantial Completion, as adjusted in accordance with this Agreement for delays to Final Completion beyond the control of the Design/Builder.

ARTICLE 3

DESIGN/BUILDER’S COMPENSATION

3.1 Contract Sum Amount: In full consideration of the proper performance of the design and construction of the Project and all other obligations of Design/Builder under this Agreement, the Owner agrees to pay the Design/Builder the sum of the amounts in Sections 3.1.1, 3.1.2, 3.1.3, 3.1.4, 3.1.5 and 3.1.6 below (the "Contract Sum"), not to exceed, in the aggregate, the Guaranteed Maximum Price, as defined in Section 3.2 hereof.

3.1.1 The lump sum amount of ____________________ Dollars for fees payable to the Architect and other design consultants engaged by the Design/Builder for services performed for the Project (the "Design Fee").

3.1.2 The lump sum amount of ____________________ Dollars for reimbursable expenses incurred by the Architect and other design consultants engaged by the Design/Builder for expense items required in the performance of the design and engineering for the Project (the “Design Reimbursable Expenses”).

3.1.3 A fee in the amount of ____________________ Dollars (the "Pre-Construction Services Fee") for management of the design and engineering for the Project and performance of Pre-Construction Services in accordance with Section 1.2 hereof, including personnel costs and reimbursable expenses.

3.1.4 The aggregate amount of Subcontract Amounts for the Subcontracts and Purchase Orders approved by the Owner and awarded by the Design/Builder in accordance with the provisions of Sections 1.3.3.1 through 1.3.3.11 hereof (the "Construction Cost"), not to exceed the "Guaranteed Maximum Construction Cost," as defined in Section 3.2.1(v) below.

3.1.5 The lump sum amount of ____________________ Dollars for General Conditions Costs, as defined in Section 3.3 hereof (the "General Conditions Cost"). The Design/Builder’s line item breakdown of the General Conditions Costs is attached hereto as Exhibit Q.

3.1.6 A fee for construction services and overall management of the Project (the "Design/Builder's Fee") in the lump sum amount to be determined in accordance with Section 3.2.1(vii) below.

3.2 Guaranteed Maximum Price:
3.2.1 The Guaranteed Maximum Price (GMP) is $___________ and is based on conceptual Documents by the Owner and the Conceptual Design Cost Estimate prepared by the Design/Builder and approved by the Owner. The GMP is also based on alternates listed in attached Exhibit R. The Guaranteed Maximum Price is the sum of the following amounts:

(i) Lump sum Design Fee, in the amount set forth in Section 3.1.1 hereof;  
(ii) Lump sum Design Reimbursable Expenses, in the amount set forth in Section 3.1.2 hereof;  
(iii) Pre-Construction Services Fee, in the amount set forth in Section 3.1.3 hereof;  
(iv) Lump sum General Conditions Costs, in the amount set forth in Section 3.1.5 hereof;  
(v) The aggregate estimated amount included in the approved Conceptual Design Cost Estimate for all Subcontracts and Purchase Orders for the Project (the "Guaranteed Maximum Construction Cost");  
(vi) The Contingency in a lump sum amount equal to _________(%) percent of the sum of the Guaranteed Maximum Construction Cost plus the General Conditions Costs; plus  
(vii) The Design/Builder's Fee in a lump sum amount equal to ________________ (%) percent of the sum of the Design Fee, Design Reimbursable Expenses, General Conditions Costs and Guaranteed Maximum Construction Cost.

The Guaranteed Maximum Price shall not include any allowances except those allowances approved in writing by the Owner.

3.2.2 The Design/Builder guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price (as adjusted in accordance with Sections 3.7 and 3.8 hereof), and the Design/Builder shall be responsible for all costs to complete the Project in excess of the Guaranteed Maximum Price (as adjusted in accordance with Sections 3.7 and 3.8 hereof).

3.3 General Conditions Costs: General Conditions Costs are defined as the actual costs and expenses (without mark-up) incurred by the Design/Builder in providing General Condition items which are listed under the heading "General Conditions Costs" on Schedule J attached hereto. The cost of any General Condition items required for the Project, other than those which are listed under the heading "General Conditions Costs" on Schedule J or listed on Schedule J as “Included in Subcontracts” or "Included in Design Fee" or "Included in Design Reimbursable Expenses" or “Provided by Owner,” are included in the Design/Builder's Fee and are not General Conditions Costs.

3.4 Contingency:

3.4.1 The Guaranteed Maximum Price includes a contingency (the “Contingency”) in the initial lump sum amount calculated under Section 3.2.1(vi) hereof, which initial amount shall be subject to adjustment in accordance with Section 3.4.3 hereof. It is understood and agreed that the Contingency shall be available only for, and is the maximum amount available for, the
following to the extent not resulting from the Design/Builder’s gross negligence: (i) additional costs due to variances between the aggregate amount of the line item amounts included in the Guaranteed Maximum Construction Costs and the actual final aggregate Subcontract Amounts for Subcontracts and Purchase Orders awarded by the Design/Builder in accordance with Section 1.3.3 hereof; (ii) items of Work within the scope of this Agreement but not included in a Subcontract due to errors of the Design/Builder or interfacing omissions with respect to the various work categories; (iii) impact costs on unchanged portions of the Work discovered subsequent to the execution of a Change Order; (iv) time extensions as to which no increase in the Guaranteed Maximum Construction Cost or General Conditions Cost is allowed under the Contract Documents; and (v) costs arising from the default by a Subcontractor and not recoverable from the Subcontractor; (vi) costs arising from concealed physical conditions at the Project Site as to which no increase in the Guaranteed Maximum Price is allowed under the Contract Documents; (vii) additional costs due to unusual material price escalation; (viii) additional costs arising from incomplete Drawings and Specifications prepared by the Architect; (ix) additional costs due to constructability and/or coordination problems with the Drawings and Specifications prepared by the Architect; (x) costs to implement the schedule recovery plan(s) approved by the Owner under Section 2.3.3 hereof; and (xi) other costs approved by the Owner. The specific use of the Contingency shall be subject to the prior approval of the Owner, which approval shall not be unreasonably withheld. If requested by the Owner, the Design/Builder shall provide a detailed justification to substantiate the requested use of the Contingency. All uses of the Contingency shall be reported upon on a monthly basis by the Design/Builder. No sums may be charged to the Contingency except for the conditions and events specified in this Section 3.4.1, and only to the extent that the same have been approved by the Owner in advance and paid by the Design/Builder in accordance with the provisions hereof.

3.4.2 Without limiting the generality of Section 3.4.1 hereof, the Contingency is not available to cover costs incurred in (i) resolving claims for nonpayment by Subcontractors, suppliers, vendors or laborers of any tier; (ii) removing and discharging liens filed by any of such parties; (iii) re-executing non-conforming work or correcting defective work unless the responsible Subcontractor is unbonded and uncollectible; (iv) performing any warranty work unless the responsible Subcontractor is unbonded and uncollectible; (v) re-executing non-conforming work or correcting defective work or repairing damage or injury covered by insurance maintained, or required to be maintained, by the Design/Builder, the Architect or any Subcontractor; or (vi) satisfying the Design/Builder’s indemnity obligations.

3.4.3 At the time the Owner approves the Design Development Documents and the Design Development Cost Estimate prepared by the Design/Builder, the Contingency shall be reduced to an amount equal to the lesser of (i) the remaining unused amount of the Contingency, or (ii) _____(%) percent of the estimated Construction Cost in the Design Development Cost Estimate approved by the Owner.

3.4.4 Four (4) weeks after the Owner approves the Construction Documents prepared by the Design/Builder, the Contingency shall be reduced to an amount equal to the lesser of (i) the remaining unused amount of the Contingency, or (ii) _____(%) percent of the Construction Cost.
3.5 Adjustments to Design/Builder’s Fee and General Conditions Cost:

3.5.1 Adjustments to Design/Builder’s Fee: To the extent that the Design/Builder is entitled to adjustments to the Design Fee, Guaranteed Maximum Construction Cost and/or General Conditions Cost under Sections 3.7 and 3.8 hereof, the Design/Builder shall be entitled to additional Design/Builder's Fee in the amount of _______(%) percent of such adjustments.

3.5.2 Adjustments to General Conditions Cost: The General Conditions Cost shall not be adjusted in connection with changes to the Work authorized by the Owner or other grounds listed under Section 3.7 hereof, except as follows:

3.5.2.1 In the event that the Owner does not issue a notice to proceed with construction of the Project on or before May 1, 2009, the General Conditions Cost shall be adjusted for the increase, if any, in the actual cost incurred by the Design/Builder to provide General Conditions Costs, provided that the Design/Builder substantiates such cost increases to the reasonable satisfaction of the Owner.

3.5.2.2 The General Conditions Cost shall be adjusted if the Design/Builder is required to provide additional site supervision (excluding working foremen) or other General Conditions Costs items attributable to the change, but only to the extent required for the changed work and not otherwise present at the Project Site.

3.5.2.3 The General Conditions Cost shall be adjusted if the CPM Schedule is extended under Section 8.3.2 of the General Conditions and the Design/Builder is required to provide site supervision or other General Conditions Costs items during the extended period.

3.6 Savings: In the event that the Contract Sum is less than the Guaranteed Maximum Price, the difference shall constitute savings for the Owner, it being understood that the Design/Builder shall not be entitled to any portion of such savings.

3.7 Adjustments to Guaranteed Maximum Price: The sole and exclusive circumstances under which the Contract Sum may be adjusted are as follows:

3.7.1 In the event that the Owner does not issue a notice to proceed with construction of the Project on or before May 1, 2009, the Guaranteed Maximum Construction Cost shall be adjusted on the following basis: to be determined if necessary.

3.7.2 Subject to the provisions of Sections 3.5 and 3.8 hereof, the Guaranteed Maximum Price may be adjusted in accordance with the provisions of Article 12 of the General Conditions because of Change Orders which, under the provisions of Article 12 of the General Conditions, may result in an increase or decrease in the cost to perform the Work.

3.7.3 The Guaranteed Maximum Price may be increased because of the circumstances described in Paragraph 8.3.2 of the General Conditions, as more particularly described in such Paragraph.

DESIGN/BUILD AGREEMENT
3.7.4 If, during the performance of construction work for the Project, the Design/Builder encounters concealed, unknown physical conditions below the surface of the ground or in an existing structure differing materially from both (i) the conditions indicated in the information provided by the Owner listed in Exhibit I hereof, and (ii) the conditions that reasonably should have been discovered by the Design/Builder in performance of the investigation, testing and analysis required to be performed by the Design/Builder under Section 1.1 hereof, the Guaranteed Maximum Price shall be increased to cover any increase in the cost of completion of the Project necessarily caused by such concealed unknown physical conditions, not to exceed the direct, unavoidable expenses incurred by the Design/Builder.

3.7.5 If the Owner objects to a subcontractor proposed by the Design/Builder, the Design/Builder shall replace such subcontractor with a subcontractor who is acceptable to the Owner. If such objection by the Owner does not have a reasonable basis (as defined herein), the Guaranteed Maximum Construction Cost shall be increased by the difference between the subcontract amount for the replacement subcontractor acceptable to the Owner and the subcontract amount for the proposed subcontractor to whom the Owner objected. The following shall be deemed to be a reasonable basis for objection to a proposed subcontractor: poor safety record, lack of experience of subcontractor or subcontractor's key project personnel on comparable projects, termination of previous contract(s) for cause, lack of adequate financial capacity. If the Owner objects to a proposed subcontractor, the Owner shall notify the Design/Builder of such objection within ten (10) business days after receipt of the Design/Builder’s designation of the proposed subcontractor.

3.7.6 The Guaranteed Maximum Price may be increased because of the circumstances described in Paragraph 8.5 of the General Conditions, as more particularly described in such Paragraph.

**There are no other circumstances under which the Guaranteed Maximum Price may be adjusted.**

3.8 No Adjustments: Notwithstanding anything to the contrary set forth in the Contract Documents, the Design/Builder shall not be entitled to any additional compensation on account of changes to the Project or Drawings and Specifications previously approved by Owner, if such changes:

3.8.1 Are required to comply with the Project Description attached as Exhibit A;

3.8.2 Are required to comply with the Owner’s Project Criteria attached as Exhibit B;

3.8.3 Are required to comply with the Preliminary Design Concept attached hereto as Exhibit C;

3.8.4 Are necessitated by any error or omission, coordination problem, constructability problem or other deficiency in the Drawings and Specifications furnished by the Design/Builder;
3.8.5 Are necessitated by any failure of the Drawings and Specifications to comply with Applicable Laws as defined in Section 1.1.8 hereof;

3.8.6 Are necessitated by any delay in the Work for which the Design/Builder is responsible under the Contract Documents; or

3.8.7 Are necessitated by any failure of the Design/Builder or the Architect, or the Design/Build Subcontractor to properly perform the services required to be performed by the Design/Builder under this Agreement.

3.9 **Excluded Costs:** The following items ("Excluded Costs") are excluded from the Guaranteed Maximum Price and shall be paid by the Owner:

(i) Fees and costs payable to Owner's consultants listed on Exhibit F hereto;

(ii) Equipment items to be furnished and installed by the Owner's Separate Suppliers listed on Exhibit G hereto;

(iii) Furnishing of equipment listed on Exhibit H hereto (Installation of such equipment is included in the Guaranteed Maximum Price.);

(iv) Items listed under the heading "Provided by Owner" on Exhibit J hereto;

(v) Fees for permits listed on Exhibit K hereto;

(vi) Work to be performed by the Owner's separate contractors listed on Exhibit N hereto;

(vii) Extension of off-site utilities (gas, water, sewage, electrical) to the Project Site;

(viii) Impact fees; and

(ix) Land, property taxes on the land, Owner’s project financing costs.

**ARTICLE 4**

**PAYMENT PROCEDURES**

4.1 **Progress Payments:** Payments are governed by this Article 4 and Article 9 of the General Conditions. The Design/Builder shall be paid on a monthly basis for Work completed through the Work-Cut-Off Date for the month covered by the Design/Builder’s Application for Payment. The following shall apply:

Work Cut-Off Date: 20th
4.2 Walk Through: On the Walk Through Date, the Design/Builder and the Architect and the Owner shall conduct a walk-through to determine construction progress, to verify up-to-date status of as-builts and to review, evaluate, modify or approve Design/Builder’s applications for payment. The Architect shall also review the Subcontractors’ applications for payment, as provided in the General Conditions. The Design/Builder shall prepare and submit to the Owner no later than the next business day, on a form acceptable to the Owner, a “pencil copy” of an Application for Payment.

4.3 Applications for Payment:

4.3.1 Unless the Owner has theretofore directed the Design/Builder to modify the “pencil copy” of the Application for Payment, the Design/Builder shall submit monthly, on the Payment Application Submittal Date: (i) a formal Application for Payment, on a form approved by the Owner; (ii) a properly completed affidavit (Sworn Statement) from Design/Builder, each Subcontractor and each Sub-Subcontractor of any tier whose subcontract exceeds $5,000.00, which affidavits shall cover all work, labor and materials, including equipment and fixtures of all kinds done, performed or furnished as of the Work Cut-Off Date; (iii) beginning with the second Application, properly completed waivers from the Design/Builder and each Subcontractor, Sub-Subcontractor, laborer and materialmen whose subcontract, sub-subcontract, purchase order or other agreement pertaining to the Project involves more than $5,000.00, which waivers shall cover all work, labor and materials, including equipment and fixtures of all kinds done, performed or furnished as of the immediately preceding Work Cut-off Date; and (iv) such other evidence reasonably necessary to satisfy the Owner and any other applicable authorities designated by Owner that the services and Work for which payment is requested has been completed in conformance with this Agreement and the Drawings and Specifications, and that all amounts which have previously been paid for services and Work have been properly distributed to Architect and the various Subcontractors, Sub-Subcontractors, laborers and materialmen. The delineation of the foregoing items to be routinely submitted with each Application for Payment shall not limit the Owner’s right to require such waivers as may be necessary to protect it from the imposition of liens on the Project.

4.3.2 Each Application for Payment shall be submitted to the Architect for a Certificate for Payment from the Architect certifying the percentage of completion of construction of the Project and otherwise approving the Application for Payment, which certification and approval shall be subject to the Owner’s approval. Prior to the issuance of a Certificate of Payment, the Architect shall make reasonable efforts to discuss the Application for Payment with the Owner. If, after the issuance of the Certificate of Payment, the Owner has a good faith objection to any portion of the amounts certified by the Architect for payment or the Architect’s decisions regarding Substantial Completion or Final Completion, the Owner shall deliver a written statement of objection to the Design/Builder, which written statement shall set forth, where applicable, the following:
(i) The line item work description and amount from the Schedule of Values attached to the Certificate of Payment being objected to by the Owner;

(ii) the specific reason for the objection of each line item;

(iii) the specific amount being objected to by the Owner; and

(iv) other grounds, if any, for objection to the Certificate of Payment, which grounds shall be consistent with the terms and conditions of the Contract Documents.

Such written statement shall be delivered to the Design/Builder within ten (10) business days after the Owner receives the Application for Payment and Certificate of Payment. The Owner shall pay the amounts over which it has no objection in accordance with the terms and conditions of the Contract Documents. The failure of the Architect to reject Work in accordance with the General Conditions shall not preclude the Owner from disputing or withholding any payment, or portion thereof, in accordance with this Section 4.3.2 or other provisions of the Contract Documents. As soon as possible after the receipt by Design/Builder of the Owner’s written statement, the Design/Builder, the Architect, and the Owner shall take such action as they deem necessary to resolve the dispute. Pending the resolution of disputes, Design/Builder and the Architect will not stop work under this Agreement. If it is ultimately and conclusively determined that the Owner wrongfully withheld all or any portion of a payment, the Owner shall pay interest to Design/Builder on such wrongfully withheld amounts from the original Payment Date until the payment is made in full, as set forth in the General Conditions.

4.4 Late Applications for Payment: Any Application for Payment submitted after the Payment Application Date shall be considered for payment at such time as convenient for the Owner, but not later than the next Payment Application Date.

4.5 Payment: The Owner shall pay the approved Application for Payment by the Payment Date.

4.6 Final Request: As soon as possible after final completion of the Work for the Project and acceptance thereof by the Architect and the Owner, Design/Builder shall submit a Final Request accompanied by final, unconditional general releases, final sworn statements and waivers of lien from Design/Builder and the Architect, all Subcontractors, Sub-Subcontractors, laborers and material suppliers, which shall set forth all amounts due and remaining unpaid to Design/Builder, and receipt of written consent of Design/Builder's surety to final payment, and, upon approval thereof by the Owner, Owner shall pay the approved Final Request within thirty (30) days.

4.7 Use of Funds: Except for the Design/Builder’s overhead and profit, amounts paid by the Owner pursuant to this Article 4 shall be used solely for the purpose of performance of the Work, the services of the Architect, and the construction and equipping of the Project in accordance with the Drawings and Specifications.
4.8 Prompt Payment: Design/Builder shall promptly pay all bills for services, labor and material properly performed and furnished by others in connection with the construction and equipping of the Project and the performance of the Work. Design/Builder shall promptly pay the Architect, Subcontractors and material suppliers for labor and materials properly performed even though the Owner may withhold amounts based upon defective Work or unsatisfactory performance by Subcontractor or materialmen not included in the current Application for Payment.

ARTICLE 5

OWNER

5.1 Owner’s Participation and Approvals:

5.1.1 The Owner and the Owner’s Consultants shall have the right to participate in design meetings with the Design/Builder and the Architect to provide for efficient exchange of information and periodic review of drawings and specifications as they are prepared by the Architect. Neither the participation by the Owners and the Owner’s Separate Suppliers and Owner's Separate Consultants’ in the design process, nor Owner’s approval of the Preliminary Design Concept or the Drawings and Specifications, nor other action by the Owner with respect to the drawings, specifications or other documents provided by the Design/Builder hereunder shall relieve the Design/Builder of its responsibility for the design and engineering of the Project and the preparation of the Drawings and Specifications in accordance with this Agreement.

5.1.2 Owner’s Representative

5.1.2.1 The Owner’s representative (“Owner’s Representative”) for the Project shall be: Ron Christenson, Christenson Corporation. All communications between the Owner and the Design/Builder shall be forwarded through the Owner’s Representative.

5.1.2.2 The Owner designates the following individual who shall have sole authority to approve changes to the Work and other Change Orders on behalf of the Owner: Mr. Corey Fedie.

ARTICLE 6

CONFLICT OF INTEREST

6.1 Interest in Patent, System, Method, etc. Used in Project: The Design/Builder hereby represents and warrants that it and its Architect and Consultants do not now and will not during its performance hereof have any direct or indirect proprietary, or other interest in any patent, system, method, plan or design of construction or in any building procedures, which if used, would involve the payment of royalties, fees, or commissions that will be recommended or used
in the Drawings and Specifications or other documents for the Project, nor in any manufacture or fabrication of any materials to be recommended or specified for use in the Project.

ARTICLE 7

CONFIDENTIAL INFORMATION

In order that the Design/Builder may effectively fulfill its covenants and obligations under the Agreement, it may be necessary or desirable for the Owner to disclose or cause disclosure of confidential and proprietary information to the Design/Builder pertaining to the Project or the Owner’s past, present and future activities. Since it is difficult to separate confidential and proprietary information from that which is not, the Design/Builder shall instruct its employees, Architect, and Subcontractors to regard all information gained by each such person, as a result of services rendered hereunder, as information which is confidential and proprietary to the Owner and not to be disclosed to any organization, private or public, or individual without the prior consent of the Owner except as may be necessary for the performance of the Work. The Design/Builder shall not disclose any information relating to the Project or the Owner’s intentions with respect thereto to any person or entity, including, without implied limitation, any governmental agency or news media. The Design/Builder shall notify the Owner of any request for information received by the Design/Builder, the Architect or any Subcontractor by any government agency or news media and obtain instruction from the Owner prior to disclosing such information.

ARTICLE 8

OWNERSHIP AND USE OF DOCUMENTS

8.1 The drawings, specifications, plans, sketches, reports, studies and other architectural and engineering materials (collectively, the “Documents”) developed by the Design/Builder and/or the Architect and Design/Build Subcontractor pursuant to this Agreement are "works for hire" and each document included in a package of deliverables, as described in Exhibit O attached hereto, shall become the property of the Owner upon payment by the Owner for such package of deliverables in accordance with this Agreement. However, the Design/Builder and its Architect and Design/Build Subcontractor may utilize any of the constituent parts of the Drawings and Specifications on any other projects.

8.2 The Owner shall have the full right to use the Documents as provided in Section 8.1 above for completing the Project, whether or not the Design/Builder or its Architect are retained in connection therewith; and future additions or modifications to, or maintenance of, the Project; and fundraising and promotional purposes (which will include acknowledgement of the Architect as the author). In the event the Owner elects to use the Documents other than for the completion or subsequent maintenance of the Project, the Owner shall indemnify, defend and hold harmless the Design/Builder and the Architect from and against any and all liability, loss, cost and expense (including reasonable attorneys’ fees) arising from claims of third parties against the
Architect, the Design/Build Subcontractor, and/or the Design/Builder resulting from such use of the Documents.

ARTICLE 9

PROFESSIONAL LIABILITY INSURANCE

In addition to the insurance required to be maintained under the General Conditions, throughout all phases of the Project, the Design/Builder, the Architect and the Design/Builder’s and Architect’s engineering consultants shall each keep in force, at its sole cost and expense, a professional liability insurance policy with minimum limits acceptable to the Owner. Such insurance policy shall further be maintained by the Design/Builder, the Architect and the structural engineer for a period of three (3) years after Final Completion. Such policy shall provide that it may not be substantially modified or canceled without thirty (30) days prior written notice to the Owner. The Design/Builder shall immediately notify the Owner of any change in the policies. The Design/Builder shall deliver to the Owner certificates of the aforesaid policies at least once a year during the term of this Agreement and for a period of three (3) years from the date of Final Completion. The Design/Builder will be permitted to self-insure the professional liability insurance coverage required to be maintained hereunder.

The Design/Builder will provide a professional/pollution insurance policy with a limit of $3,000,000 and the Design-Builder’s Architect will maintain a professional liability policy with a minimum limit of $5,000,000.

ARTICLE 10

INDEMNIFICATION

10.1 To the fullest extent permitted by law, the Design/Builder shall indemnify, defend and hold the Owner, the Owner’s Representative, and their respective agents and employees (the “Indemnitees”) harmless from all claims, loss, costs and expenses (including reasonable attorney fees) arising from the services under this Agreement, to the extent caused by, arising out of, resulting from, the (i) errors or omissions in the Project design or Drawings and Specifications; (ii) the performance of the services under this Agreement by the Design/Builder, Architect and/or their agents and employees; (iii) the wrongdoing of the Design/Builder, its Architect, its Subcontractors and/or its suppliers; and/or (iv) the breach of this Agreement by the Design/Builder, excepting claims, costs, expenses or liabilities to the extent caused by the negligence of the Indemnitees. To the fullest extent permitted by law, provided the Owner has paid the Design/Builder in accordance with the Contract Documents, the Design/Builder shall indemnify, defend and hold the Owner and its property harmless from all claims for nonpayment by the Design/Builder’s Architect, and Subcontractors, Sub-Subcontractors, laborers, vendors and materialmen for services, labor or material provided by or through the Design/Builder, and shall indemnify, defend and hold the Owner harmless from any construction or mechanics lien.
or similar claims for work performed and/or labor or material furnished by or through the Design/Builder.

10.2 The obligations under this Article 10 are in addition to the Design/Builder's indemnification obligations under the General Conditions. The provisions of this Article 10 shall survive the termination or expiration of this Agreement.

ARTICLE 11
LIMITATION ON LIABILITY

Notwithstanding anything herein or in the Contract Documents to the contrary, neither the Design/Builder, Architect, nor the Owner shall be liable to the other for any consequential losses or damages, whether arising in contract, warranty, tort (including negligence), strict liability or otherwise, including, without limitation, losses of use, profits, business, reputation or financing.

ARTICLE 12
CONTRACT DOCUMENTS

12.1 The Contract Documents consist of, (i) this Design/Build Agreement, including the Exhibits attached hereto; (ii) the document entitled “General Conditions of the Design/Build Agreement” attached hereto as Exhibit Q; (iii) the Pre-Construction Schedule approved pursuant to Section 1.3.4 hereof; (iv) the CPM Schedule approved pursuant to Section 1.3.4 hereof; (v) the Drawings and the Specifications prepared by the Design/Builder and approved by the Owner pursuant to Section 1.1.10 hereof; and (vi) all Addenda issued prior to and all Modifications issued after execution of the Agreement. At the time the final construction Drawings and Specifications are approved by the Owner and the State of Wyoming and all other regulatory agencies having jurisdiction over the Project, this Agreement shall be amended in writing to include such Drawings and Specifications in the Contract Documents. A Modification is (1) a written amendment to the Agreement signed by both parties, (2) a Change Order, or (3) a written order for a minor change in the Work issued by the Architect and approved by the Owner in accordance with Section 1.1.2.7 hereof.

12.2 As used in the General Conditions of the Design/Build Contract, the term “Contractor” shall mean and refer to the Design/Builder. In the event of any conflict or inconsistency between the General Conditions of the Contract for Construction and this Agreement, the provisions of this Agreement shall govern.

12.3 Following Exhibits are attached hereto and made a part hereof:

Exhibit A: Project Description
Exhibit B: Owner’s Project Criteria
Exhibit C: Preliminary Design Concept
ARTICLE 13

TERMINATION BY OWNER WITHOUT CAUSE

13.1 The Owner shall have the right to terminate this Agreement without cause and for the convenience of the Owner upon fifteen (15) days' written notice of termination to Design/Builder under any of the following circumstances:

13.1.1 The Owner elects not to issue a notice to proceed with the Design Completion Phase or a notice to proceed with construction.

13.1.2 After issuance of a notice to proceed with construction, the Owner abandons the Project or suspends the Project for more than three (3) months not due to the fault of the Design/Builder. In the event the Owner decides to re-commence and complete the Project after termination of this Agreement due to such abandonment or suspension, the Owner shall permit the Design/Builder to submit a proposal to the Owner for the completion of the Project.

13.1.3 The cost of the Project to the Owner exceeds the Owner’s Project Budget amount due to changes in the Project (including, by way of example, changes in requirements of Applicable Laws; concealed subsurface conditions and other changes to the Project) if such changes are beyond the control of the Owner and the Design/Builder is entitled to an increase in the Guaranteed Maximum Price under the Contract Documents on account of such changes. In the event the Owner decides to complete the Project after termination of this Agreement hereunder, the Owner shall permit the Design/Builder to submit a proposal to the Owner for the completion of the Project.

13.1.4 The Owner elects to terminate this Agreement for convenience after one year after the commencement of construction work for the Project, but only after (i) the Project executives for the Owner and Design/Builder have met to discuss the Project progress and status and the relationship between the parties, and (ii) the Design/Builder has been provided at least thirty (30)
days to address any problems in such relationship and/or the Project administration to the Owner’s satisfaction.

**13.2** In the event of termination by Owner pursuant to this Section 13.1, the Design/Builder shall receive, as total compensation for all services performed hereunder, payment due in accordance with Article 4 hereof for all Work performed prior to the effective date of termination, plus retention previously withheld in accordance with Paragraph 9.4.4 of the General Conditions, plus reasonable cost to demobilize (in accordance with the line item in the approved Schedule of Values), plus any commercially reasonable restocking or material and equipment cancellation charges payable by Design/Builder to Subcontractors, suppliers and vendors, substantiated by itemized labor and material invoices and other supporting documentation. As a condition of payment, the Design/Builder shall furnish the Owner with a release of all claims against the Owner.

**13.3** In the event of a termination by Owner pursuant to this Section 13.1, the compensation described in Section 13.2 hereof shall be paid within thirty (30) days after the Owner receives (i) the necessary applications, waivers, etc., required under this Agreement to process a request for payment; (ii) the Architect's certification of the request for payment, including a certification as to the percentage of completion of the Project; (iii) the release of all claims required by Section 13.2 hereof; and (iv) all documents and other items requested by Owner pursuant to Section 13.5 hereof at the time of termination.

**13.4** The payment of the compensation described in Section 13.2 hereof is the sole and exclusive remedy of the Design/Builder for a termination of this Agreement by Owner pursuant to Section 13.1 and Design/Builder shall not be entitled to, and hereby waives, any claim for lost profits on Work not yet performed or other consequential damages.

**13.5** At the request of the Owner, Design/Builder shall assign to Owner the agreement between Owner and Architect and all approved Subcontracts and Owner shall indemnify and defend Design/Builder in connection therewith.

**13.6** All Subcontracts shall contain provisions consistent with the foregoing.

**THE OWNER AND DESIGN/BUILDER** have, on the day, month, and year first above written, executed this Agreement in triplicate, each of which shall be deemed an original thereof.

**WITNESS**

**DESIGN/BUILDER**

____________________________

a ________________ corporation

____________________________

By: __________________________

____________________________

Its: __________________________

DESIGN/BUILD AGREEMENT
OWNER

CAMPBELL COUNTY MEMORIAL HOSPITAL,
a ______________________,

_______________________  __________________________
By:  _______________________

_______________________  Its:  _______________________

DESIGN/BUILD AGREEMENT
EXHIBIT A

PROJECT DESCRIPTION
CAMPBELL COUNTY MEMORIAL HOSPITAL
GILLETTE, WYOMING

PROJECT INCLUDES:
The Surgery Department and Patient Care Unit Expansion, Parking Structure, Helipad and Sitework, and Renovations to Existing Facility, located at the Campbell County Memorial Hospital, 501 South Burma Avenue, Gillette, Wyoming, 82717-3011. The project shall increase the existing facility by approximately 150,700 square feet in a new basement plus 3 story expansion, shall provide 180 new parking spaces in a new detached parking structure, shall renovate approximately 29,500 square feet for newly-designated programmatic functions, shall provide a new helipad, and shall reconfigure the site to accommodate new construction, provide additional parking and improve overall site circulation.

PROJECT PARAMETERS:
- Relocate the surgery Department to include Inpatient and Outpatient Surgery, Endoscopy, Patient Intake and Reception, Pre-operative Care, Post-Anesthesia Care, Central Sterile, and ancillary support, staff, administrative and public/family areas;
- Relocate Patient Care Units, providing a Medical/Surgical Nursing Unit of 365 beds and an Intensive/Critical Care Nursing Unit of 12 beds, and a Medical/Surgery Overflow unit of 11 beds, and ancillary support, staff, administrative and public/family areas;
- Relocate the Obstetrics Nursing Department, providing 6 labor and delivery rooms, two caesarean operating rooms, 14 post-partum patient care rooms, Well-baby and Level II/Level IIB Nursery; Special Care Pediatric Nursing Unit and ancillary support, staff, administrative and public/family areas;
- Expand the Inpatient Behavioral Health Unit to 8 beds;
- Relocate Patient Accounts/Registration;
- Provide a walk-in Ambulatory Clinic-Urgent Care Center to augment services provided by the current Emergency Department;
- Provide circulation upgrades to update existing circulation spaces and connect expanded and relocated services to the existing facility;
- Increase capacity for existing mechanical and electrical systems to support expanded and relocated departments and services;
- Provide parking structure with capacity to park 180 vehicles, reconfigured staff parking, and new designated Physician’s parking;
- Reconfigure on-site Patient and Visitor receiving area;
- Accommodate potential for future vertical and horizontal expansion of new hospital structure and parking structure.

Consistent with the Hospital Planning and Programming Services, Surgery Services, Oncology Services, Inpatient Units, and Behavioral Health, Conceptual Plan – Revised, as prepared by HDR Architecture, Inc. and as issued April, 2008, based upon the selected and approved Option 8B, the following:
Parking Structure, Helipad, and Sitework: to include
• Provide two-level parking structure of 90 parking spaces per level for 180 parking spaces total; the lower level shall align with the south parking surface lot, the upper level shall align with north parking surface lot. Vertical circulation shall be provided by a stair/elevator core. Future expansion of the two decks to the north and additional two decks above shall be accommodated;

• Provide Helipad structure above the existing Ambulance Garage, Elevator/Stair vertical access to Helipad structure located to west of existing hospital facility, and canopy structure to link the Elevator/Stair to existing facility west entrance;

• Enhance a portion of the project site, approximately 578,000 square feet or 13.25 acres, (of a total of approximately 778,110 square feet/17.85 acres) to accommodate:
  - new Patient Drop-off area and reconfiguration of the existing patient drop-off area as secondary facility entry;
  - reconfiguration of the Receiving Area;
  - reconfiguration of Staff parking at the south;
  - reconfiguration of Patient and Visitor Parking at the west after relocation of the existing helipad;
  - reconfiguration of the Patient and Visitor Parking at the north;
  - realignment of north entrance drive away from existing entrance to the North Annex building;
  - new designation Physicians’ parking accessible from the south;
  - reconfiguration of the on-site pedestrian circulation;
  - landscaping to meet City of Gillette Landscaping standards;
  - grading and retaining walls to support new parking structure and other changes in grade.

New Surgery Department and Patient Care Unit Expansion: to include
• Provide a newly-constructed basement level and 3-story expansion of approximately 150,700 square feet to accommodate the following:
  - Ground Level: Support and building systems functions; Administration, Community Service, Human Resources, Education Services and Volunteer Services; Expansion of Materials Management; Select relocation of a portion of Nutrition Services; Shell space for future Dining facilities expansion; Circulation and building support;
  - First Level: Inpatient/Outpatient Surgery/Endoscopy; Prep/PACU/2nd Stage Recovery; Central Sterile; Patient and Visitor Reception and Amenities; Circulation and building support; Canopy structure to link the parking structure, new surgery department and patient care unit entrances and the existing facility east entrance;
  - Second Level: 36-Bed Medical/Surgery Nursing Unit;
Circulation and building support

- Third Level: 6 Labor and Delivery Rooms;
  14-Bed Post Partum Nursing Unit;
  2 Cesarean Section Operating Rooms and PACU;
  Nursery – Well-baby and Level II/Level IIB;
  2-Bed Special Care Pediatric Nursing Unit;
  Patient and Visitor Reception and Amenities;
  Circulation and building support;

- Fourth Level: Elevator Machine Penthouse;
  Capability to expand additional story floor plate;

- Fifth Level: Capability to expand additional story floor plate;

- Provide upgrades to the Central Utility Plant, renovate existing building services spaces and provide new space as required for expansion in overall capacity for mechanical and electrical building infrastructure systems;

**Renovations to the Existing Facility: to include**

- Renovate the Existing Hospital, approximately 29,500 square feet, to accommodate the following:
  - Ground Level: Receiving/Materials Management expansion and circulation modifications;
  - First Level: Patient Registration backfill;
    Physician On-Call backfill;
    Outpatient Pharmacy;
    Walk-in Ambulatory Clinic;
    Gift/Coffee shop;
    Circulation and support space upgrades;
    Finish upgrades at existing Lobby;
  - Second Level: Relocate 12-Bed ICU/CCU Nursing Unit to 2 West;
    Enclosed Connector from ICU/CCU Nursing Unit to Elevator/Stair vertical access to Helipad structure;
    Circulation and support space upgrades;
    Finish upgrades at existing Lobby;
  - Third Level: Finish upgrades at existing Lobby;
  - Fourth Level: Finish upgrades at existing Lobby;
  - Fifth Level: Expand/Renovate Inpatient Behavioral Health;
    Circulation and support space upgrades;
    Finish upgrades at existing Lobby.

The construction of Subproject 3 renovation work shall occur after the completion of new construction in Subproject 2.

END
EXHIBIT B

OWNER’S PROJECT CRITERIA

[Design Criteria/Outline Specification attached to the Request For Proposal for Design and Construction of Campbell County Memorial Hospital Expansion, Parking Structure, Helipad, Sitework and Renovations, Gillette, Wyoming]

Same as Exhibit C
EXHIBIT C

PRELIMINARY DESIGN CONCEPT

Campbell County Memorial Hospital, Request for Proposals for Design and Construction the Hospital Expansion, Parking Structure, Helipad, Sitework and Renovation, Gillette, Wyoming

General Conditions of the Design/Build Agreement

Form of Design/Build Agreement

Campbell County Memorial Hospital Outline Specifications dtd. 10/28/2008

Site Plan

Geotechnical Report as prepared by CE&MT dtd. 11/26/08 and entitled “CCMH Hospital Expansion.”

The Specifications are those contained in the Program and Narratives entitled, “Space Allocation Summary” dtd. 10/28/2008 by Thomas, Miller and Partners and are as follows:

Space Allocation Summary dtd. 10/28/2008
Architectural Narrative, Phase II and Phase III dtd. November 4, 2008
Structural Narrative, dtd. November 5, 2008
Civil Narrative, Phase II and Phase II dtd. November 4, 2008
Landscape Narrative dtd. November 4, 2008
M/P/E Systems Narrative, Phase II and Phase II dtd. November 4, 2008

Concept Drawings by HDR:
Ground Level Plan Option B Drawing G (4/3/08)
First Level Plan Option B Drawing 1 (4/3/08)
First Level Plan Option B Drawing 1A (4/3/08)
Second Level Plan Option B Drawing 2 (4/3/08)
Second Level Plan Option B Drawing 2A (4/3/08)
Third Level Plan Option B Drawing 3 (4/3/08)
Existing 3 South and Diagnostic/ Support Space Option B Drawing 3A (4/3/08)
Fourth Level Plan Option B Drawing 4 (4/3/08)
Fifth Level Plan Option B Drawing 5 (4/3/08)

Civil Drawings by Thomas, Miller & Partners:
Site Survey C001 (11/10/08)
Site Work Demolition Plan C002 (11/10/08)
Overall Site and Utility Plan C100 (11/10/08)
Water Main Plan and Profile C101 (11/10/08)
Storm Sewer Plan and Profile C102 (11/10/08)
Overall Grading Plan C200 (11/10/08)
Access Road Plan and Profile C201 (11/10/08)
Retaining Wall and Profiles C202 (11/10/08)
Overall Paving Plan C300 (11/10/08)
Civil Details C400 (11/10/08)

Architectural Drawings by Thomas, Miller & Partners:
Parking Garage First Level Floor Plan A100
Parking Garage Second Level Floor Plan A101
Parking Garage Third Level Floor Plan A102
Parking Garage Elevations A400
Parking Garage Elevation and Typical Wall Section A401
Parking Garage Sections A450

END
EXHIBIT D

DESIGN/BUILDER’S ARCHITECT AND DESIGN CONSULTANTS

Architect:
Architect's Personnel:
Civil Engineer Personnel:

Consultants:
Communications System Consultant:
Medical Equipment Planning Consultant:
Signage Design:

END
EXHIBIT E

PROJECT SITE DESCRIPTION

See Exhibit C.
EXHIBIT F

OWNER’S SEPARATE CONSULTANTS

Construction Quality Control Testing Agent

Commissioning Agent for MEP Systems and IS Systems

Mechanical System Balance Consultant

Owner’s Representative

Geotechnical:

END
EXHIBIT G

OWNER’S SEPARATE SUPPLIERS

To be determined.
EXHIBIT H

OWNER-FURNISHED EQUIPMENT
TO BE INSTALLED BY DESIGN/BUILDER

To be determined
EXHIBIT I

SITE INFORMATION PROVIDED BY OWNER

Certified Site Survey

Topographic Survey

Preliminary Soils/Geotechnical Investigation


END
EXHIBIT J

Not used
EXHIBIT K

PERMITS TO BE OBTAINED BY OWNER

Zoning

Site Plan Approval (based on documents provided by the Design/Builder and consultation and assistance of Design/Builder)

Storm Water Permit (based on documents provided by the Design/Builder and consultation and assistance of Design/Builder)

Off-Site Utilities Approvals (based on documents provided by the Design/Builder and consultation and assistance of Design/Builder)

END
# EXHIBIT L

## MILESTONE SCHEDULE

![Milestone Schedule Diagram](image-url)

### Design Build Schedule
Campbell County Memorial Hospital
Addition & Renovation
Gillette, WY (12/30/08)

<table>
<thead>
<tr>
<th>ID</th>
<th>Task Name</th>
<th>Start</th>
<th>Finish</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Design Build RFP</td>
<td>Fri 11/7/08</td>
<td>Thu 1/15/09</td>
<td>Qtr 1</td>
<td>Qtr 4</td>
</tr>
<tr>
<td>2</td>
<td>Site Work Design</td>
<td>Mon 5/15/08</td>
<td>Fri 12/20/08</td>
<td>Qtr 1</td>
<td>Qtr 2</td>
</tr>
<tr>
<td>3</td>
<td>Parking Ramp - Design</td>
<td>Mon 5/15/08</td>
<td>Tue 12/20/08</td>
<td>Qtr 3</td>
<td>Qtr 3</td>
</tr>
<tr>
<td>4</td>
<td>Precast - Thomas Miller</td>
<td>Mon 5/15/08</td>
<td>Tue 11/15/08</td>
<td>Qtr 1</td>
<td>Qtr 2</td>
</tr>
<tr>
<td>5</td>
<td>Precast - Contractor</td>
<td>Thu 12/18/08</td>
<td>Mon 1/19/09</td>
<td>Qtr 1</td>
<td>Qtr 3</td>
</tr>
<tr>
<td>6</td>
<td>Contract Documents</td>
<td>Mon 5/15/08</td>
<td>Mon 1/19/09</td>
<td>Qtr 3</td>
<td>Qtr 4</td>
</tr>
<tr>
<td>7</td>
<td>Expansion, Renovation</td>
<td>Mon 5/15/08</td>
<td>Tue 11/17/08</td>
<td>Qtr 4</td>
<td>Qtr 4</td>
</tr>
<tr>
<td>8</td>
<td>Concept</td>
<td>Mon 5/16/08</td>
<td>Fri 2/20/09</td>
<td>Qtr 1</td>
<td>Qtr 3</td>
</tr>
<tr>
<td>9</td>
<td>Design Development</td>
<td>Fri 2/6/09</td>
<td>Fri 6/13/09</td>
<td>Qtr 2</td>
<td>Qtr 4</td>
</tr>
<tr>
<td>10</td>
<td>Contract Documents</td>
<td>Fri 6/12/09</td>
<td>Tue 11/17/09</td>
<td>Qtr 3</td>
<td>Qtr 3</td>
</tr>
<tr>
<td>11</td>
<td>SRA, (Bid)</td>
<td>Fri 11/6/08</td>
<td>Tue 11/17/09</td>
<td>Qtr 3</td>
<td>Qtr 4</td>
</tr>
<tr>
<td>12</td>
<td>SRA (Concept)</td>
<td>Mon 12/8/08</td>
<td>Fri 1/9/09</td>
<td>Qtr 1</td>
<td>Qtr 2</td>
</tr>
<tr>
<td>13</td>
<td>SRA (Design Development)</td>
<td>Fri 12/6/08</td>
<td>Fri 6/13/09</td>
<td>Qtr 4</td>
<td>Qtr 4</td>
</tr>
<tr>
<td>14</td>
<td>SRA</td>
<td>Fri 6/12/09</td>
<td>Tue 11/17/09</td>
<td>Qtr 3</td>
<td>Qtr 4</td>
</tr>
<tr>
<td>15</td>
<td>Site work</td>
<td>Thu 11/12/08</td>
<td>Thu 12/13/08</td>
<td>Qtr 2</td>
<td>Qtr 3</td>
</tr>
<tr>
<td>16</td>
<td>Precast - Structure</td>
<td>Fri 12/6/08</td>
<td>Fri 12/13/08</td>
<td>Qtr 3</td>
<td>Qtr 4</td>
</tr>
<tr>
<td>17</td>
<td>Parking Ramp</td>
<td>Fri 12/6/08</td>
<td>Thu 12/20/08</td>
<td>Qtr 3</td>
<td>Qtr 4</td>
</tr>
<tr>
<td>18</td>
<td>Concrete Steel - Expansion</td>
<td>Fri 5/1/08</td>
<td>Fri 5/15/09</td>
<td>Qtr 1</td>
<td>Qtr 2</td>
</tr>
<tr>
<td>19</td>
<td>紧接着, a detailed list of tasks and their corresponding dates is provided.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

---

Page 1
EXHIBIT M

DESIGN/BUILDER’S PERSONNEL
EXHIBIT N

OWNER’S SEPARATE CONTRACTORS

To be determined.
EXHIBIT O

DESIGN PHASE DELIVERABLES

To be determined.
### EXHIBIT P

#### BREAKDOWN OF GENERAL CONDITIONS COSTS

<table>
<thead>
<tr>
<th>Cost Item</th>
<th>Rate</th>
<th>Duration</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Manager</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Superintendent</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Foreman</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Engineer</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Administration</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Timekeeper</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Procurement</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Telephone</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site Communications</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary Power</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary Toilets</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary Water</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary Buildings</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Access Roads</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Storage &amp; Parking Areas</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary Site Drainage</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pickup Truck</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bus</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Forklift</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pull Tractor</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mobile Cranes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tower Crane</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Misc. Equipment Rental</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Move In &amp; Out</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mobilization &amp; Set Up</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Office Supplies</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Testing &amp; Inspection</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>First Aid Services</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medical Supplies</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary Fire Protection</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Watchman</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Security Services</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stairs &amp; Ladders</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary Railings</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fences &amp; Hoarding</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Survey Equipment</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Survey &amp; Layout</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Project Signs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Photographs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cost Item</td>
<td>Rate</td>
<td>Duration</td>
<td>Amount</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>------</td>
<td>----------</td>
<td>--------</td>
</tr>
<tr>
<td>Sundry Trucking</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Protect Finishes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Protect Floor Finishes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scheduling Consultant</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rentals-Meters, Land, Etc.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Daily Housekeeping</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Final Cleanup</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clean Glass</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maintenance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wind Bracing-Masonry</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Snow Removal</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary Shelters – Project</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Concrete</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Masonry</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Close In Building Openings</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary Heaters to Shelters</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Heater Labor to Shelters</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Heater Fuel To Shelters</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary Heat</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Safety Meetings</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Board &amp; Room Allowance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Camp</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Travel Expense</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Travel Time</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Overtime</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Misc. Labor Premiums</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Small Tool Assessment</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expendable Tools</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Consumable Supplies</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bonds</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subtrade Bonds</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All Risk Insurance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Special Insurance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Permits &amp; Licenses</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Design Consultants</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>________________________________</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>________________________________</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>________________________________</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>________________________________</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>________________________________</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>________________________________</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>________________________________</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
EXHIBIT Q

GENERAL CONDITIONS OF THE DESIGN/BUILD CONTRACT

Attached.