

BOILERPLATE

(USING TRADITIONAL DESIGN – BID – BUILD PROCESS)

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****ADVERTISEMENT FOR BIDS BELOW IS TO BE INCLUDED IN THE PROJECT MANUAL AND IS TO BE PROVIDED TO DPW TO PLACE ADVERTISEMENT ON THE INTERNET****

ADVERTISEMENT FOR BIDS

Sealed proposals will be received by Division of Public Works, State of Idaho at

____ until _____, local time,
(address) _____ (date)
on _____ for DPW Project No. _____.
(time) _____ (number)

***INCLUDE NAME AND LOCATION OF PROJECT.**

****INCLUDE A SUMMARY OF THE PROJECT SCOPE BELOW.**

A description of the Work of this project can be summarized to include: _____.

Proposals will be opened and publicly read at the above hour and date.

Plans, specifications, proposal forms and other information are on file for examination at the following locations:

****MODIFY ACCORDING TO JOB LOCATION****

- Division of Public Works, 502 N. 4th Street, Boise, ID, 83702; Telephone no. (208) 332-1900;
- Associated General Contractors, 1649 W Shoreline Drive, Ste. 100, Boise, ID 83702; Telephone no. (208) 344-2531; Email address: <https://www.idahoagc.org/plan-room>;
- Blueprint Specialties, 6205 W. Overland Road, Boise, ID 83709; Telephone no.: (208) 377-0294; Email address: www.docuproject.com.

A bid bond in the amount of 5% of the total bid amount, including any add alternates, is required.

****MODIFY TYPE OF SUBCONTRACTOR FOR SPECIAL PROJECTS LIKE ROOFING OR CARPETING****

One set of documents may be obtained by licensed general contractors and by licensed mechanical and electrical subcontractors from the Design Professional for a refundable deposit of \$ _____. Others may obtain documents at cost, non-refundable.

****INCLUDE IF APPLICABLE****

A pre-bid conference will be held at _____ on _____
(location) _____ (date)
starting at _____. Bidders are encouraged to attend.
(time)

****SELECT THE FOLLOWING APPLICABLE PARAGRAPH, DEPENDING ON THE USE OF STATE OR FEDERAL FUNDS****

**** (State Funds)**

A Public Works Contractors License for the State of Idaho is required to bid on this Work.

**** (Federal Funds)**

A Public Works Contractors License for the State of Idaho will be required of the successful bidder prior to award of a contract.

Estimated Cost: \$ _____

DATED: _____

Kelly A. Berard, Administrator
Division of Public Works

END OF ADVERTISEMENT FOR BIDS

INSTRUCTIONS TO BIDDERS

GENERAL PROVISIONS

DEFINITIONS: Capitalized terms used in these Instructions to Bidders (“Instructions”) shall have the meaning given to them in the Division of Public Works’ Fixed Price Construction Contract Between Owner and Contractor.

HEADINGS: Headings used in these Instructions are for convenience only.

REJECTION OF BIDS, WAIVER OF INFORMALITIES OR CANCELLATION: Prior to the effective date of a contract, the Administrator of the Division of Public Works shall have the right to accept or reject all bids, to waive any minor deviations/informalities or to cancel the bid.

ORAL INFORMATION: Questions concerning a bid must be directed in writing to the designated Design Professional (architect or engineer) no less than ten (10) calendar days before bids are due unless provided otherwise via an addendum. Oral information is not binding and any reliance by a bidder on any oral information or representation is at the bidder’s sole risk. Any information given a prospective bidder in response to a written question will be provided to all prospective bidders by an addendum, if such information is necessary for purposes of submitting a bid or if failure to give such information would be prejudicial to uninformed bidders.

PUBLIC RECORDS: The Idaho Public Records Law, Title 74, Chapter 1, Idaho Code, allows the open inspection and copying of public records. Public records include any writing containing information relating to the conduct or administration of the public's business prepared, owned, used, or retained by a State or local agency regardless of the physical form or character. Unless exempted by the Public Records Law, your bid will be a public record subject to disclosure under the Public Records Law. Any questions regarding the applicability of the Public Records Law should be addressed to your legal counsel prior to submission.

FORM OF AGREEMENT: Unless otherwise specified in the bid documents, the agreement between the successful bidder and the Owner (“State of Idaho”) shall be the Division of Public Works’ Fixed Price Construction Contract Between Owner and Contractor.

PERFORMANCE AND PAYMENT BONDS: A performance bond and payment bond are required for this Project, each in an amount of not less than one hundred percent (100%) of the Contract Price. The performance and payment bonds shall be AIA Document A312, 1984 or the most recent Edition, or a standard surety form certified approved to be the same as the AIA A312 form and shall be executed by a surety or sureties reasonably acceptable to the Owner and authorized to do business in the State of Idaho. Bonds must be provided within ten (10) calendar days following receipt of a Notice of Intent to Award.

BID SUBMISSION PROCESS

BID DOCUMENTS: The bid documents are available from the Design Professional or as provided in the Invitation to Bid or advertisement for bids. The responsibility is on the bidder to use a complete set of bid documents to prepare its bid and neither the Owner nor the Design Professional shall incur any liability for the bidder's failure to do so. Bidders obtain no ownership interest or any use rights, except to use in preparation of their bid, by issuance of the bid documents.

Bidders and Sub-bidders shall field verify all dimensions pertaining to the Work and shall be responsible for the determination of all quantities of materials required for the completion of the Work. The bidder shall not rely on the scale drawings of the Bidding Documents in its determination of required materials quantities. No allowance shall be made for Bidder's failure to field-verify dimensions.

If a deposit is required, the deposit will be returned to a bidder returning the complete bid documents in good condition no more than twenty (20) days after a Notice of Intent is issued and the amount of any deposit returned may be reduced if the bid documents returned are not complete or are damaged. A bidder awarded a Contract may also keep the bid documents and any deposit will be returned.

ADENDA: In the event it becomes necessary to revise any part of the bid documents, addenda will be issued. Information given to one bidder will be available to all other bidders if such information is necessary for purposes of submitting a bid or if failure to give such information would be prejudicial to uninformed bidders. It is the bidder's responsibility to check for addenda prior to submitting a bid. A bidder is required to acknowledge receipt of all addenda by identifying the addenda numbers in the space provided on the bid proposal form. Failure to do so may result in the bid being declared non-responsive. No addenda will be issued less than four (4) calendar days before the closing date unless the bid closing date is extended.

REVIEW: It is the bidder's responsibility to review the bid documents and compare them as needed, including, with regard to, any other Work that is or may be under construction that might affect the bidder or its Work, to examine the site and local conditions and to report, in writing, any questions, errors, inconsistencies or ambiguities to the Design Professional.

****INSERT THE NEXT THREE PARAGRAPHS WHEN PROJECT SCOPE INCLUDES SIGNIFICANT ROOFING-REROOFING WORK (EXCLUDES SIMPLE PATCH AND REPAIR WORK AND ASPHALT SHINGLE WORK.) ****

- All manufacturers of roofing systems, including those specifically named or listed as "approved" in the specifications, as well as those not specifically named or listed as "approved" shall submit to the Design Professional a fully executed MANUFACTURER'S CERTIFICATION from the manufacturer's authorized representative certifying that the manufacturer's representative has received the bidding documents for the project, that required guarantees can and will be issued for the specific installation, and that all specifications and detail as written and as shown are appropriate or that alternate specifications and/or details enclosed with the signed statement must be used, noting all exceptions, and listing approved applicators. THIS COMPLETED FORM SHALL BE RECEIVED BY THE DESIGN PROFESSIONAL NO LATER THAN SEVEN (7) DAYS PRIOR TO THE DATE FOR RECEIPT OF BIDS.

- THE MANUFACTURER'S CERTIFICATION FORM included in the Project Manual following these Instructions to Bidders shall be used for this purpose. Additional copies of this form may be obtained from the Design Professional.
- The Roofing Manufacturer shall include all information required to complete the form.

PRODUCTS SPECIFIED AND PROPOSED SUBSTITUTIONS: Materials, products, or equipment, if specified by name or manufacturer, establish the standard of quality required and that must be met by any proposed substitution. Requests for substitutions must be made in writing to the Design Professional no less than ten (10) calendar days prior to the bid closing unless provided otherwise via an addenda. Such requests must provide detailed information to allow the Design Professional to determine if the proposed substitution is acceptable, including drawings or performance or test data and a detailed statement of how the substitution would change any other part of the Work. It is the bidder's obligation to satisfy this requirement and the Design Professional's decision shall be final. To be allowed, substitutions must be approved in an addendum to the bid documents.

****INSERT THE NEXT TWO PARAGRAPHS WHEN PROJECT SCOPE INCLUDES
SIGNIFICANT ROOFING-REROOFING WORK (EXCLUDES SIMPLE PATCH AND
REPAIR WORK AND ASPHALT SHINGLE WORK.) ****

- All requests for approval of roofing materials not specifically named or listed as "approved" in the specifications shall be accompanied by a fully executed ROOFING MATERIALS SUBSTITUTION REQUEST FORM from the manufacturer. THIS COMPLETED FORM SHALL BE RECEIVED BY THE DESIGN PROFESSIONAL NO LATER THAN TEN (10) DAYS PRIOR TO THE DATE FOR RECEIPT OF BIDS.
- The ROOFING MATERIALS SUBSTITUTION REQUEST FORM included in the Project Manual following these Instructions to Bidders shall be used for this purpose. Additional copies of this FORM may be obtained from the Design Professional.

BID FORM: Bids must be submitted on the bid proposal forms, or copies of forms, furnished by the Owner or the Design Professional. Bids submitted must contain all original signatures in ink on the following forms:

1. Bid Proposal Form;
2. Contractor's Affidavit Concerning Alcohol and Drug-Free Workplace;
3. Bidder's Acknowledgment Statement and;
4. Bid Bond (bid security).

The person signing the Bid Proposal Form must initial any and all changes appearing on any of the bid forms. If the bidder is a corporation or other legal entity, the bid forms must be signed by an authorized designee. Oral, telephonic, telegraphic, facsimile, or other electronically transmitted bid forms and/or signatures will not be considered.

BID PRICES: The bid form may require bidders to submit bid prices for one (1) or more items on various bases, including lump sum base bid, lump sum bid alternate prices, unit prices or any combination thereof. Bid amounts shall be expressed in words and numbers. The amount in words shall prevail if there is a discrepancy.

ALTERNATES: If the solicitation/bid includes alternate bid items or unit prices, failure to bid on the alternates or unit prices may disqualify the bid. If bidding on an alternate does not change the base bid, indicate by "No Change." If bidding on all items is not required by the Contract Documents, bidders must affirmatively indicate that they are not bidding on those items.

TIME FOR SUBMISSION: Bids must be submitted on or before the time specified in the advertisement for bids. Any bid submitted late will be rejected.

SEALED ENVELOPE: Bids shall be submitted in a sealed envelope with the following clearly printed on the outside of the envelope: the Project number and Project name; the name and address of the bidder; and a statement, such as "BID ENCLOSED" to indicate that it is a bid.

MAILED BIDS: When bids are mailed or shipped, the sealed envelope containing the bid shall be enclosed in a separate mailing envelope with the notation "SEALED BID ENCLOSED" on the face thereof. If mailed, the mailing envelope shall be addressed as follows:

****MODIFY FOR OUT OF AREA LOCATIONS; USE FULL ADDRESS ONLY****

Division of Public Works
502 N. 4th Street
P. O. Box 83720
Boise, Idaho 83720-0072

It is the bidder's responsibility to ensure that its bid is delivered to the place designated for receipt on or before the specified closing time. The Owner assumes no responsibility for delays in the delivery of mail by the U.S. Post Office or private couriers. Bidders should be advised the intra-state mail system may increase delivery time from arrival at Central Postal to the place designated for receipt and should plan accordingly. **LATE SUBMISSIONS WILL BE REJECTED, WILL NOT BE OPENED AND WILL BE RETURNED TO THE BIDDER. NO DEVIATIONS WILL BE ALLOWED.**

BID CLOSING DECLARED: Immediately prior to the bid opening, the Owner's representative will declare the official bid closing. Any part of a bid not received prior to the bid closing declared by the designated representative will not be considered and will be returned to the bidder unopened. All bids shall be taken under advisement.

DRUG-FREE WORKPLACE: Along with its bid, the bidder shall submit an affidavit certifying compliance with Title 72, Chapter 17, Idaho Code, requiring the Contractor and its subcontractors at the time of bid to provide a drug-free Workplace program and to maintain such program throughout the duration of the Contract. The form of affidavit is attached.

ILLEGAL ALIENS: Bidder shall warrant that the bidder does not knowingly hire or engage any illegal aliens or persons not authorized to Work in the United States; bidder shall take steps to verify that it does not hire or engage any illegal aliens or persons not authorized to Work in the United States; and that any misrepresentation in this regard or any employment of persons not authorized to Work in the United States constitutes a material breach and shall be cause for the imposition of monetary penalties and/or termination of any Contract resulting from this bid.

LEGAL RESIDENCY REQUIREMENT: By submitting a bid, the bidder attests, under penalty of perjury, that it (the bidder) is a United States citizen or legal permanent resident or that it is otherwise lawfully present in the United States pursuant to federal law. Prior to being issued a contract, the bidder will be required to submit proof of lawful presence in the United States in accordance with §67-7903, Idaho Code.

BIDDER'S ACKNOWLEDGEMENT STATEMENT: The attached Bidder's Acknowledgement Statement must be completed and included, or the bid may be found non-responsive.

****SELECT ONLY THE FOLLOWING APPLICABLE PARAGRAPH****

PUBLIC WORKS CONTRACTOR'S LICENSE: This Project is not financed in whole or in part by federal funds. Bids will be accepted from those Contractors only (prime contractors, subcontractors and/or specialty contractors) who, prior to the bid opening, hold current licenses as public Works contractors in the State of Idaho.

****OR****

PUBLIC WORKS CONTRACTOR'S LICENSE: This Project is financed in whole or in part by federal funds. No Contractor shall be required to have a current license as a public Works contractor in the State of Idaho in order to submit a bid on this Project but at or prior to the award and execution of the Contract, the successful bidder shall have secured a public Works contractor's license.

****INCLUDE WAGE RATES PARAGRAPH ONLY IF PREVAILING WAGE RATE IS APPLICABLE****

WAGE RATES: Bids shall be based on applicable wage determinations and labor standards established by the Secretary of Labor, United States Department of Labor.

IDAHO LABOR REQUIREMENTS: This Project is subject to the provisions of Sections 44-1001 and 44-1002, Idaho Code, dealing with labor preference.

IDAHO PREFERENCE LAW: Section 67-2348, Idaho Code, requires the Division of Public Works to apply a preference in determining which Contractor submitted the lowest responsible bid. If the Contractor who submitted the lowest dollar bid is domiciled in a state with a preference law that penalizes Idaho domiciled contractors, the Division of Public Works must apply the preference law (percentage amount) of that domiciliary state to that Contractor's bid.

****USE THE FOLLOWING PARAGRAPH ON NAMING ONLY IF THE PROJECT HAS ONE OR MORE OF THE FOLLOWING: PLUMBING, HEATING AND AIR CONDITIONING, OR ELECTRICAL WORK; DELETE IF NONE****

NAMING OF SUBCONTRACTORS: Section 67-2310, Idaho Code, requires general (prime) Contractors to include in their bid the name of the subcontractors who shall, in the event the Contractor secures the Contract, subcontract the plumbing, HVAC, and electrical Work under the general (prime) Contract. Failure to name subcontractors as required by this section shall render any bid submitted by a general (prime) Contractor nonresponsive and void. Subcontractors named in accordance with the provisions of this section must possess an appropriate license or certificate of competency issued by the State of Idaho covering the Contractor Work classification in which the subcontractor is named.

The Division of Public Works interprets Section 67-2310, Idaho Code, to mean three (3) separate areas of Work: plumbing Work, HVAC, and electrical Work. The Division of Public Works also requires that the general (prime) Contractor name the entity that will perform the Work, including if the entity is a subcontractor, a sub-subcontractor or the general (prime) Contractor submitting the bid. Failure to complete the Bid Proposal in full shall render a bid nonresponsive and void.

With regard to possessing an appropriate license or certificate of competency, all subcontractors listed by the general (prime) Contractor must have at the time of the bid opening a current license in the appropriate category (class, type and specialty category) as issued by the Public Works Contractors State License Board. In addition, plumbing, HVAC and electrical subcontractors shall have at the time of the bid opening a valid plumbing contractor's license, HVAC contractor's license or electrical contractor's license, respectively, as issued by the Idaho Division of Occupational and Professional Licenses.

In determining if the above listed subcontractors are required on the Project, the Division of Public Works will refer to the plans and specifications. If doubt exists prior to bid closing, potential bidders should contact the Division of Public Works and the Design Professional who prepared the plans and specifications will be requested to make the determination. If plumbing, HVAC or electrical Work are not shown on the plans and specifications but are discovered by the bidder prior to the date of bid opening, then the bidder must request clarification from the Design Professional. Absent such clarification, Work will be considered incidental, and naming of a subcontractor will not be required.

BID SECURITY

AMOUNT AND FORM OF SECURITY: To be considered, bids must be accompanied by an acceptable bid security in an amount not less than five percent (5%) of the total amount of the bid, including additive alternates. The security may be in the form of a bond or a certified or cashier's check. A standard surety bid bond form meeting all the conditions of AIA Document A310 is acceptable and, if used, must include a certified and current copy of the power of attorney if the bond is executed by the attorney-in-fact on behalf of the surety.

FORFEITURE: A successful bidder who fails to sign the Contract for the Work or furnish the required bonds within ten (10) calendar days following the receipt of notice of intent to award a Contract is subject to forfeiture in accordance with Section 54-1904E, Idaho Code.

RETENTION OF SECURITY: Bid security shall be retained for no more than forty-five (45) calendar days after the opening of bids, so long as the bidder has not been notified of the acceptance of the bid.

BID WITHDRAWAL

PRIOR TO BID CLOSING: If a bid has been submitted, it may be withdrawn in person by a bidder's authorized representative before the opening of the bids. A bidder's representative will be required to show identification and sign on a bid summary sheet before it will be released. After bid closing, no bid may be withdrawn except in strict accordance with these Instructions or applicable law.

BID MODIFICATION

PRIOR TO BID CLOSING: If a bid has been submitted, it may be modified by the submission of a written document contained in a separate sealed envelope marked "Bid Modification from [Name of Bidder] for DPW Project No: **00000**; **Project Name**." **THE DOCUMENT MODIFYING THE BID MUST BE SIGNED IN INK BY AN AUTHORIZED REPRESENTATIVE OF THE SUBMITTING BIDDER. THE DIVISION OF PUBLIC WORKS RESERVES THE RIGHT TO REQUIRE PRESENTATION OF EVIDENCE SATISFACTORY TO IT TO ESTABLISH THE AUTHORITY TO ACT ON BEHALF OF THE SUBMITTING BIDDER. NO OTHER FORM OF MODIFICATION (INCLUDING TELEPHONE, FACSIMILE OR ELECTRONIC MAIL) WILL BE ACCEPTED. AFTER BID CLOSING, NO BID MAY BE MODIFIED EXCEPT IN STRICT ACCORDANCE WITH THESE INSTRUCTIONS OR APPLICABLE LAW.**

RELIEF FROM BIDS

CONDITIONS FOR RELIEF: Relief from bids is subject to Sections 54-1904B through 54-1904E, Idaho Code. In the event a bidder discovers a mistake in its bid following the bid opening and wishes to withdraw its bid, the bidder shall establish to the satisfaction of the Owner, pursuant to Section 54-1904C, Idaho Code, that a clerical or mathematical mistake was made; the bidder gave the public entity (Owner) written notice within five (5) calendar days after the opening of the bid of the mistake, specifying in the notice in detail how the mistake occurred; and the mistake was material.

DETERMINATION: If the Owner determines that the bidder has satisfied the requirements of Section 54-1904C, Idaho Code, to entitle it to relief from a bid because of a mistake, it shall prepare a report in writing to document the facts establishing the existence of each required element. The report shall be available for inspection as a public record and shall be filed with the public entity soliciting bids. A bidder claiming a mistake and satisfying all the required conditions of Section 54-1904C, Idaho Code, shall be entitled to relief from the bid and have any bid security returned by the Owner. Bidders not satisfying the conditions of Section 54-1904C, Idaho Code shall be subject to forfeiture in accordance with Section 54-1904B, Idaho Code. A bidder who claims a mistake or who forfeits its bid security shall be prohibited from participating in any re-bidding of that project on which the mistake was claimed, or security forfeited, and the Owner may award the Contract to the next lowest responsive and responsible bidder.

BIDDER'S REPRESENTATIONS

REPRESENTATIONS UPON SUBMITTING A BID: By submitting its bid, a bidder represents and warrants the following:

1. The person signing the bid is authorized to bind the bidder;
2. It has all required licenses, permits or other authorizations necessary to submit its bid;
3. It has taken steps necessary to ascertain the nature and location of the Work and has investigated and satisfied itself as to the general and local conditions which can affect the Work or its cost, including but not limited to: (i) conditions bearing upon transportation, disposal, handling and storage of materials; (ii) the availability of labor, water, natural gas, electric power and roads; (iii) uncertainties of weather, river stages or similar physical conditions at the site; (iv) the conformation and conditions of the ground; and (v) the character of equipment and facilities needed preliminary to and during the Work;
4. It has satisfied itself as to character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including exploratory Work done by the Owner as well as from the drawings and specifications provided as part of the bid package, and that any failure of the bidder to take such actions will not relieve the bidder from responsibility for estimating properly the difficulty and cost of successfully performing the Work;
5. It has received, read and reviewed the Contract, has submitted any questions in writing regarding the same and has received an answer to such questions;
6. Its bid is based upon the requirements of the Contract without exception;
7. It is in compliance with Title 72, Chapter 17, Idaho Code, regarding a drug-free Workplace and has included the required affidavit regarding the same;
8. Its bid is in compliance with employment of persons authorized to Work in the United States;
9. It will retain bid security and hold and honor all base bid prices for forty-five (45) calendar days from the date of bid opening, and cannot be withdrawn after the bid opening;
10. Its bid prices shown for each item on the bid proposal form include all labor, material, equipment, overhead and compensation to complete all the Work for that item; and
11. It has included in its bid amount Idaho sales and/or use taxes on all materials and equipment and all other taxes imposed by law.

BID AWARD

AWARD METHOD: Public Works construction contracts for the State of Idaho are awarded to the "lowest responsible and responsive bidder." The low bidder, for purposes of award, shall be the responsible and responsive bidder offering the low aggregate amount for the base bid item, plus any additive or deductive bid alternates selected by the Owner, and within funds available as determined by the Owner. Bid Award is also subject to the requirements of Idaho Code, including without limitation: Title 67, Chapter 57; Title 67, Chapter 23; Title 54, Chapter 19; and Title 44, Chapter 10. It is the bidder's responsibility to conform to **ALL** applicable federal, state, and local statutes or other applicable legal requirements. The information provided herein is intended to assist bidders in meeting applicable requirements but is not exhaustive and the Owner will not be responsible for any failure by any bidder to meet applicable requirements.

DETERMINATION OF RESPONSIBILITY: The Owner reserves the right to make reasonable inquiry about or from the submitting bidder or from third parties to determine the responsibility of a submitting bidder. Such inquiry may include, but not be limited to, inquiry regarding experience and expertise related to the Project, manpower and other resources, financial stability, credit ratings, references, potential subcontractors, and past performance. The unreasonable failure of a submitting bidder to promptly supply any requested information may result in a finding of non-responsibility.

NOTICE OF EFFECTIVENESS: No Contract is effective until the authorized Owner's official has signed the Contract and the Notice to Proceed has been issued. The bidder shall not provide any goods or render services until the Contract has been signed by the Administrator of the Division of Public Works and the Contract has become effective. Furthermore, the Owner is in no way responsible for reimbursing the bidder for goods provided or services rendered prior to the signature of the authorized Division of Public Work's official and the arrival of the Notice to Proceed.

INCURRING COSTS: The Owner is not liable for any cost incurred by bidders prior to the Notice to Proceed.

PRIOR ACCEPTANCE OF DEFECTIVE BIDS OR PROPOSALS: The Owner generally will not completely review or analyze bids that appear to fail to comply with the requirements of the bid documents, nor will the Owner generally investigate the references or qualifications of those who submit such bids. Therefore, any acknowledgment that the selection is complete shall not operate as a representation by the Owner that an unsuccessful bid was responsive, complete, sufficient, or lawful in any respect.

POST-AWARD SUBMITTALS: Upon receipt of a Notice of Intent to Award, the apparent low responsive and responsible bidder shall provide documentation required in such Notice. Such Notice of Intent to Award shall generally require the bidder to return to the Owner, within ten (10) days of receipt, a signed Contract, all required bonds, proof of insurance and documentation required by the Idaho State Tax Commission (report and affidavit).

OWNER'S RIGHT TO REJECT: Prior to execution of the Contract, the Owner or Design Professional shall provide written notice of any reasonable objection to any person or entity proposed by the bidder. Upon receipt of such notice, the bidder may withdraw its bid, without forfeiture, or propose a substitute and identify any change in any bid amount caused by such substitution. The Owner may accept or reject the substitution or the adjusted price. If the Owner rejects the substitution or the adjusted price, it will return the bidder's bid guarantee.

END OF INSTRUCTIONS

****INCLUDE THE FOLLOWING WHEN PROJECT SCOPE INCLUDES SIGNIFICANT
ROOFING-REROOFING WORK (EXCLUDES SIMPLE PATCH AND REPAIR WORK AND
ASPHALT SHINGLE WORK.) ****

MANUFACTURER'S CERTIFICATION

The undersigned roofing manufacturer hereby certifies that it has reviewed the drawings, specifications and conditions of the site and the terms of the roofing guarantee included in the specification and find them acceptable, and if the manufacturer's materials are installed on the project in accordance with the drawings and specifications and upon inspection by the manufacturer's technical representative, manufacturer will issue the guarantee in the form specified.

DATED THIS _____ DAY OF _____ 20____.

(MANUFACTURER)

(AUTHORIZED REPRESENTATIVE)

EXCEPTIONS: Subject to the following exceptions and or modification, (attach any details or added verbiage that is required) the undersigned roofing manufacturer will certify to the conditions stated above:

DATED THIS _____ Day of _____ 20____.

(MANUFACTURER)

(AUTHORIZED REPRESENTATIVE)

APPROVED APPLICATORS: The following roofing contractors are approved applicators of the roofing system specified (or approved) and as manufactured by the above-named manufacturer:

NAME

ADDRESS

****INCLUDE THE FOLLOWING WHEN PROJECT SCOPE INCLUDES SIGNIFICANT
ROOFING-REROOFING WORK (EXCLUDES SIMPLE PATCH AND REPAIR WORK AND
ASPHALT SHINGLE WORK.) ****

ROOFING MATERIALS SUBSTITUTION REQUEST FORM

(Submit not less than ten (10) days prior to bid date)

DPW Project No. _____

TO: _____
(Design Professional)

We hereby submit for your consideration the following products in lieu of those specified for the above referenced project:

**MATERIAL
SUBSTITUTION**

SPECIFIED

PROPOSED

Vapor Barrier _____
Roof Insulation _____
Roofing Membrane _____
Surfacing _____

Description of Proposed Components: _____

Differences between specified and proposed components including type of insulation, method of anchoring, details, surfacing, application methods, etc. _____

Attach complete technical data, including manufacturer's published specifications, standard details, laboratory tests and certifications, material samples and similar information to fully describe the products and methods of application.

If changes are required in specifications, drawings, or details, provide revised specifications and details for consideration.

Answer the following:

1. Does proposed substitution affect details or dimensions shown on the drawings?

_____ YES _____ NO

2. Will proposed substitution meet specified Underwriters Laboratory and ICBO ratings?

_____ YES _____ NO

3. Is insulation and roofing method of attachment listed with Factory Mutual against wind loss?

_____ YES _____ NO

4. Are all components of the roofing system (vapor barrier, insulation, fasteners, membrane components, flashings, and surfacing) manufactured by or acceptable to the roofing manufacturer?

_____ YES _____ NO

5. Will the manufacturer's authorized representative sign the Manufacturer's Certification included in the specification?

_____ YES _____ NO

The undersigned manufacturer's representative states that the above information is true and correct, and that the proposed materials function, appearance, and quality are equivalent or superior to the specified materials.

Manufacturer

Manufacturer's Representative

Address or PO Address

City, State and zip code

Authorized Signature

Title

Telephone Number

Email Address

END OF ROOFING MATERIALS SUBSTITUTION REQUEST FORM

BID PROPOSAL

TO: STATE OF IDAHO
DIVISION OF PUBLIC WORKS

To Whom it May Concern:

The Bidder, in compliance with your Invitation for Bids for the construction of (DPW Project No. and Name): _____, having examined the bidding and Contract Documents and the site of the proposed Work, and being familiar with all of the conditions surrounding the construction of the proposed Project, including the availability of materials and labor, hereby proposes to furnish all labor, materials and supplies and to provide the service and insurance in accordance with the Contract Documents, within the time set forth therein, and at the prices stated below. These prices are to cover all expenses incurred in performing the Work required under the Contract Documents.

****FILL IN COMPLETION DAYS AND LIQUIDATED DAMAGES****

Bidder hereby agrees to commence Work under this Contract on a date to be specified in the written "Notice to Proceed" of the Owner and to substantially complete the Project within _____ consecutive calendar days thereafter, as stipulated in the specifications. Bidder further agrees to pay as liquidated damages, the sum of \$ _____ for each consecutive calendar day after the established substantial completion date or adjusted date as established by change order.

Bidder acknowledges receipt of Addenda No. _____.
(List all Addenda)

****GIVE COMPLETE DESCRIPTION OF BASE PROPOSAL AND ALTERNATES ELSEWHERE IN SPECIFICATIONS****

BASE PROPOSAL: Bidder agrees to perform all the base proposal Work described in the specifications and shown on the plans for the sum of:

_____ Dollars (\$ _____)
(Amount shall be shown in both words and figures. In case of discrepancy, the amount shown in words will govern.)

****UNIT PRICES – DPW DISCOURSES THE USE OF UNIT PRICES; HOWEVER, THEY ARE OCCASIONALLY USEFUL; THE FOLLOWING IS AN EXAMPLE OF HOW THEY ARE TO BE INCORPORATED INTO THE PROJECT; ADJUST QUANTITIES TO FIT THE PROJECT****

UNIT PRICE PROPOSAL - ROCK EXCAVATION: It is anticipated that rock excavation will be required and since the exact quantity of rock excavation required is not possible to determine at this time, the bidder's unit price for rock excavation shall be multiplied by 100 cubic yards and added to the bidder's base bid price and included in the Fixed Price Contract Amount to determine the low responsive bid. The

Fixed Price Contract Amount will be increased or decreased by multiplying the actual cubic yards of rock excavated by the unit price.

_____ Dollars (\$) _____ x 100 cy = \$ _____

BASE PROPOSAL PLUS UNIT PRICE:

_____ Dollars (\$) _____
(Amount shall be shown in both words and figures. In case of discrepancy, the amount shown in words will govern.)

****USE ADDITIVE ALTERNATES UNLESS OTHERWISE APPROVED; ALTERNATES SHALL BE LISTED IN ORDER OF PREFERENCE; COORDINATE WITH DPW AND AGENCY; EACH ALTERNATE SHALL INCLUDE A BRIEF DESCRIPTIVE TITLE****

Alternate No. 1: _____

Add the sum of _____ Dollars (\$) _____

Alternate No. 2: _____

Add the sum of _____ Dollars (\$) _____

Alternate No. 3: _____

Add the sum of _____ Dollars (\$) _____

Alternate No. 4: _____

Add the sum of _____ Dollars (\$) _____

Bidder understands that the Owner reserves the right to reject any or all bids and to waive any informality in the bidding.

The bidder agrees that this bid shall be good for a period of forty-five (45) calendar days after the scheduled opening time for receiving bids.

Upon receipt of written Notice of Intent to Award of this bid, Bidder will execute the formal Contract within ten (10) calendar days and deliver a Surety Bond or Bonds as required by paragraph "Performance and Payment Bonds" first page (ITB-1) of the Instructions to Bidders.

The bid security in the amount of five percent (5%) of the bid amount is to become the property of the Owner, in the event the Contract and bond are not executed within the time set forth, as liquidated damages for the delay and additional expense to the Owner caused thereby.

The names and addresses of the entities who will perform the Work identified below, subject to approval of Owner and Design Professional, if Undersigned is awarded the Contract, are as follows:

*****INCLUDE BLANKS FOR SUB-CONTRACTORS ONLY AS APPLICABLE TO THE PROJECT*****

Plumbing (PWCL Category 15400)

(Name) _____

(Address) _____

Idaho Public Works Contractors License No. _____

Idaho Plumbing Contractors License No. _____

Heating, Ventilating & Air Conditioning (PWCL Category 15700-HVAC)

(Name) _____

(Address) _____

Idaho Public Works Contractors License No. _____

Idaho HVAC Contractors License No. _____

Electrical (PWCL Category 16000)

(Name) _____

(Address) _____

Idaho Public Works Contractors License No. _____

Idaho Electrical Contractors License No. _____

FAILURE TO NAME A PROPERLY LICENSED SUBCONTRACTOR IN EACH OF THE ABOVE CATEGORIES WILL RENDER THE BID UNRESPONSIVE AND VOID.

*****INCLUDE THE FOLLOWING IF APPLICABLE*****

IDAPA 18.01.49 requires that the fire sprinkler contractor/subcontractor be licensed as an Idaho Fire Sprinkler Contractor. The Owner requests the name, address and license numbers of the contractor/subcontractor who will perform the fire sprinkler Work, subject to approval of Owner and Design Professional, if undersigned is awarded the Contract:

(Name) _____

(Address) _____

Idaho Public Works Contractors License No. _____

Fire Sprinkler Contractors License No. _____

Should the listing of subcontractors change due to selection of alternates or other similar circumstances, attach explanation.

Bidder warrants that bid has been prepared and that any contract resulting from acceptance of this bid is subject to the Fixed Price Construction Contract.

The undersigned notifies that it is of this date duly licensed as an Idaho Public Works Contractor and further that it possesses Idaho Public Works Contractor's License No. _____, and is domiciled in the State of _____.

****FOR PROJECTS WITH FEDERAL FUNDS, DELETE THE ABOVE PARAGRAPH AND USE THE FOLLOWING PARAGRAPH INSTEAD****

The undersigned notifies that it is of this date duly licensed as an Idaho Public Works Contractor and further that it possesses Idaho Public Works Contractor's License No. _____, or that it and its subcontractors shall have secured a Public Works Contractor's License at or prior to award and execution of the Contract for construction and is domiciled in the State of _____.

Dated this _____ day of _____, 20____.

Respectfully submitted by:

Contractor's Name- Typed

Street or PO Address

City, State and zip code

Authorized Signature

Title

Telephone Number

Email Address

Have you remembered to include bid security (bid bond or a certified or cashier's check), Contractor's Affidavit Concerning Alcohol and Drug-Free Workplace and a signed copy of the Bidder's Acknowledgment Statement with your bid?

*****EXECUTE AND SUBMIT WITH BID*****

CONTRACTOR'S AFFIDAVIT
CONCERNING ALCOHOL AND DRUG-FREE WORKPLACE

STATE OF _____ :ss

COUNTY OF _____

Pursuant to the Section 72-1717, Idaho Code, I, the undersigned, being duly sworn, depose and certify that _____ is in compliance with the provisions of Section 72-1717, Idaho Code; that _____ provides a drug-free Workplace program that complies with the provisions of Title 72, Chapter 17, Idaho Code, and will maintain such program throughout the life of a state construction contract; and that _____ shall subcontract Work only to subcontractors meeting the requirements of Section 72-1717(1)(a), Idaho Code.

**FAILURE TO EXECUTE THIS AFFIDAVIT AND SUBMIT IT ALONG WITH YOUR BID SHALL
MAKE YOUR BID NON-RESPONSIVE.**

Name of Contractor

Address or PO address

City, State, zip code

Signature

Title

Subscribed and sworn to before me this _____ day of _____, _____.

(SEAL)

NOTARY PUBLIC

Residing at: _____

Commission expires: _____

****EXECUTE AND SUBMIT WITH BID****

BIDDER'S ACKNOWLEDGMENT STATEMENT

NOTE: THE INFORMATION CONTAINED HEREIN IS A SUMMARY OF VITAL CONTRACT PROVISIONS AND DOES NOT CHANGE THE CONTRACT DOCUMENTS THAT WILL GOVERN THIS PROJECT.

Division of Public Works Project No. _____, *(AE to insert project number & name)* _____

By submitting a bid for this Project, the undersigned bidder agrees that, if awarded the Contract for construction, Contractor will conform to all conditions and requirements of the Contract, including but not limited to:

- Contractor agrees to comply with conditions pertaining to Sections 44-1001 and 44-1002, Idaho Code, requiring the employment of ninety-five percent (95%) bona fide Idaho residents and providing for a preference in the employment of bona fide Idaho residents and regarding the employment of persons not authorized to Work in the United States.
- Contractor will substantially complete the Work within the time stated in the Contract Documents, or as modified by Change Order(s).
- If the Contractor fails to substantially complete the Project within the time stated in the Contract Documents, or as modified by Change Order, the Contractor agrees that the Owner may deduct from the Contract amount liquidated damages in the amount per calendar day, indicated in the Contract Documents, times the number of calendar days until the Project is Substantially Complete, as defined in the Contract Documents and as determined by the Design Professional.
 - The Contractor agrees that the amount allowed for overhead and profit on any Change Order is limited to the amounts indicated in subparagraph 16.3.(k) of the Fixed Price Construction Contract Between Owner and Contractor.
 1. For total changes the amount allowed for overhead, profit, bonds and insurance for the Contractor and all subcontractors of any tier combined shall not exceed fifteen percent (15%) of direct costs; or
 2. The Contractor will determine the amount of overhead and profit to be apportioned between the Contractor and its subcontractor of allowable amounts of overhead, profit, bonds and insurance.
 - The Contractor agrees that Change Orders are governed by the Fixed Price Construction Contract Between Owner and Contractor General Conditions of the Contract for Construction including as follows:
 1. By the execution of a Change Order, the Contractor agrees and acknowledges that it has had sufficient time and opportunity to examine the change in Work which is the subject of the Change

Order and that it has undertaken all reasonable efforts to discover and disclose any concealed or unknown conditions which may, to any extent, affect the Contractor's ability to perform in accordance with the Change Order. Aside from those matters specifically set forth in the Change Order, the Owner shall not be obligated to make any adjustments to either the Contract Sum or Contract Time by reason of any conditions affecting the change in Work addressed by the Change Order that could have reasonably been discovered or disclosed by the Contractor's examination.

2. Any Change Order fully executed by the Owner, Contractor and Design Professional, including but not limited to, a Change Order arising by reason of the parties' mutual agreement or by mediation, shall constitute a final and full settlement of all matters relating to or affected by the change in the Work, including but not limited to, all direct and consequential costs associated with such change and any and all adjustments to the Contract Price and Contract Time. In the event a Change Order increases the Contract Price, the Contractor shall include the Work covered by such Change Order in the Application for Payment as if such Work was originally part of the Project and Contract Documents.

- **Certification Concerning Boycott of Israel.** Pursuant to Idaho Code section 67-2346, if payments under the Contract exceed one hundred thousand dollars (\$100,000) and Contractor employs ten (10) or more persons, Contractor certifies that it is not currently engaged in, and will not for the duration of the Contract engage in, a boycott of goods or services from Israel or territories under its control. The terms in this section defined in Idaho Code section 67-2346 shall have the meaning defined therein.
- **Ownership or Operation by China.** Pursuant to Idaho Code section 67-2359, Contractor certifies that it is not currently owned or operated by the government of China and will not for the duration of the Contract be owned or operated by the government of China. The terms in this section defined in Idaho Code section 67-2359 shall have the meaning defined therein.
- **Boycott of Various Industries.** Pursuant to Idaho Code section 67-2347A (effective July 1, 2024), if payments under the Contract exceed one hundred thousand dollars (\$100,000) and Contractor employs ten (10) or more persons, Contractor certifies that it is not currently engaged in, and will not for the duration of the Contract engage in, a boycott of any individual or company because the individual or company: a) engages in or supports the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel-based energy, timber, minerals, hydroelectric power, nuclear energy, or agriculture; or b) engages in or supports the manufacture, distribution, sale, or use of firearms. The terms in this section defined in Idaho Code section 67-2347A shall have the meaning defined therein, including through reference to another section of Idaho Code.

FAILURE TO EXECUTE THIS ACKNOWLEDGMENT MAY MAKE YOUR BID NON-RESPONSIVE.

I, _____, being duly authorized to bind
the _____ (type or print name of individual)
bidder, _____, does hereby certify that I have fully read
(type or print name of company)

and understand this document and that it highlights certain parts of the Contract that will be entered between the parties and that will govern this Project.

Authorized Signature: _____

Title: _____

Date: _____

END OF BIDDER'S ACKNOWLEDGMENT STATEMENT

**DIVISION OF PUBLIC WORKS
FIXED PRICE CONSTRUCTION CONTRACT
BETWEEN OWNER AND CONTRACTOR**

DPW PROJECT NO.
PROJECT NAME PER DPW:
NAME OF STATE AGENCY:
PROJECT LOCATION:

****INSERT THE FOLLOWING: DPW PROJECT NUMBER, NAME, AGENCY, AND PROJECT LOCATION. AS IT APPEARS ON DPW PROJECT SET-UP SHEETS UNLESS SPECIFICALLY APPROVED OTHERWISE BY DPW****

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FIXED PRICE CONSTRUCTION CONTRACT **BETWEEN OWNER AND CONTRACTOR**

THIS FIXED PRICE CONSTRUCTION CONTRACT BETWEEN OWNER AND CONTRACTOR (the "Contract") is by and between the State of Idaho, Department of Administration, Division of Public Works ("DPW" or the "Owner") and (insert name of contractor) (the "Contractor") and is for the construction of the project (the "Project") identified as DPW Project No. [00000], as more fully described in Exhibit A, and incorporated herein by reference. This Contract shall be effective on _____ (day) of _____ (month), 20__ (year), when executed by both parties.

In consideration of the mutual promises, covenants, and agreements stated herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Owner and the Contractor agree:

ARTICLE 1 **CONTRACT DOCUMENTS**

- 1.1** The Contract Documents consist of this Contract, the drawings and specifications for the Project (the "Drawings and Specifications") identified in Exhibit C and any Addenda thereto issued prior to execution of this Contract, written amendments signed by both the Owner and the Contractor, Change Orders signed by both the Owner and the Contractor, Construction Change Directives and any written orders by the Design Professional for minor changes in the Work (the "Contract Documents"). Documents not included or expressly contemplated in this Article 1 do not, and shall not, form any part of the Contract Documents.
- 1.2** The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations.

ARTICLE 2 **REPRESENTATIONS AND WARRANTIES OF THE CONTRACTOR**

To induce the Owner to execute this Contract and recognizing that the Owner is relying thereon, the Contractor, by executing this Contract, makes the following express representations to the Owner:

- 2.1** The Contractor is fully qualified to act as the Contractor for the Project and has, and shall maintain, any and all licenses, permits or other authorizations necessary to act as the Contractor for, and to construct, the Project.
- 2.2** The Contractor has become familiar with the Project site and the local conditions under which the Project is to be constructed and operated particularly in correlation to the requirements of the Contract.
- 2.3** The Contractor has received, reviewed, compared, studied, and carefully examined all of the documents which make up the Contract Documents, including the Drawings and Specifications, and any Addenda, and has found them in all respects to be complete, accurate, adequate, consistent, coordinated and sufficient for construction. Such review, comparison, study and examination shall

be a warranty that the Contractor believes that the documents are complete and the Project is buildable as described except as reported.

2.4 The Contractor warrants that the Contract Time is a reasonable period for performing the Work.

2.5 The Contractor warrants to the Owner and Design Professional that all labor furnished on this Project shall be competent to perform the tasks undertaken; materials and equipment furnished under the Contract will be new and of high quality unless otherwise required or permitted by the Contract Documents; that the Work will be complete, of high quality and free from defects not inherent in the quality required or permitted; and that the Work will strictly conform to the requirements of the Contract Documents. Any Work not strictly conforming to these requirements, including substitutions not properly approved and authorized, shall be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse by Owner or its representatives, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty shall survive the completion of the Contract and final payment to the Contractor.

2.6 Required Certifications.

2.6.1 **Certification Concerning Boycott of Israel.** Pursuant to Idaho Code section 67-2346, if payments under the Contract exceed one hundred thousand dollars (\$100,000) and Contractor employs ten or more persons, Contractor certifies that it is not currently engaged in, and will not for the duration of the Contract engage in, a boycott of goods or services from Israel or territories under its control. The terms in this section defined in Idaho Code section 67-2346 shall have the meaning defined therein.

2.6.2 **Ownership or Operation by China.** Pursuant to Idaho Code section 67-2359, Contractor certifies that it is not currently owned or operated by the government of China and will not for the duration of the Contract be owned or operated by the government of China. The terms in this section defined in Idaho Code section 67-2359 shall have the meaning defined therein.

2.6.3 **Disclosure of Abortion Related Matters.** The State is subject to the No Public Funds for Abortion Act, Idaho Code title 18, chapter 87 (the "Act") and State employees who intentionally violate the provisions of the Act are subject to criminal prosecution. Contractor must disclose, unless Contractor is within one of the exemptions provided in the Act, if it or an affiliate is or becomes, during the term of the Agreement, an abortion provider and if it will use state facilities or public funds to provide, perform, participate in, promote or induce, assist, counsel in favor, refer or train a person for an abortion related activity. Please refer to the Act for definitions of the terms used in this section.

2.6.4 **Boycott of Various Industries.** Pursuant to Idaho Code section 67-2347A (effective July 1, 2024), if payments under the Contract exceed one hundred thousand dollars (\$100,000) and Contractor employs ten (10) or more persons, Contractor certifies that it is not currently engaged in, and will not for the duration of the Contract engage in, a boycott of any individual or company because the individual or company: a) engages in or supports the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel-based energy, timber, minerals, hydroelectric power, nuclear energy, or agriculture; or b) engages in or supports the manufacture, distribution, sale, or use of firearms. The terms in this section defined in Idaho Code section 67-2347A shall have the meaning defined therein, including through reference to another section of Idaho Code.

****INSERT PARAGRAPH 2.7 IF THIS IS AN IDAHO STATE BUILDING AUTHORITY PROJECT****

2.7 The Contractor acknowledges that the Owner leases the real property and facilities to be improved in this Project from the Idaho State Building Authority (“ISBA”), an independent public body corporate and politic. The Contractor agrees that its obligations to the Owner extend similarly to the ISBA, including its obligation to indemnify and defend, to provide insurance certificates and to name the ISBA as an additional insured or loss payee, as applicable.

ARTICLE 3
INTENT AND INTERPRETATION

With respect to the intent and interpretation of this Contract, the Owner and the Contractor agree as follows:

3.1 This Contract constitutes the entire and exclusive agreement between the parties with reference to the Project, and supersedes any and all prior discussions, communications, representations, understandings, negotiations or agreements. This Contract also supersedes any bid documents.

3.2 The intent of the Contract is to include all items necessary for the proper execution and completion of the Project and anything that may be required, implied or inferred by the documents which make up this Contract, or any one or more of them, shall be provided by the Contractor for the Fixed Price Contract Amount. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all.

3.3 Nothing contained in this Contract shall create, nor be interpreted to create privity or any other relationship whatsoever between the Owner and any person or entity except the Contractor; provided; however, that the Design Professional is entitled to performance and enforcement of obligations under the Contract intended or necessary to facilitate its duties. Any reference to the Owner, the Contractor, or the Design Professional shall be deemed to include authorized representatives.

3.4 When a word, term or phrase is used in this Contract, it shall be interpreted or construed first as defined herein; second, if not defined, according to its generally accepted meaning in the construction industry; and third, if there is no generally accepted meaning in the construction industry, according to its common and customary usage.

3.5 The words "include," "includes," or "including," as used in this Contract, shall be deemed to be followed by the phrase "without limitation."

3.6 The specification herein of any act, failure, refusal, omission, event, occurrence, or condition as constituting a material breach of this Contract shall not imply that any other, non-specified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this Contract.

3.7 The Contractor shall have a continuing duty to read, examine, review, compare and contrast each of the documents which make up this Contract, shop drawings and other submittals, and shall give timely written notice to the Owner and the Design Professional of any conflict, ambiguity, error or

omission which the Contractor may find with respect to these documents before proceeding with the affected Work.

- 3.8 The express or implied approval by the Owner or the Design Professional of any shop drawings or other submittals shall not relieve the Contractor of the continuing duties imposed hereby, nor shall any such approval be evidence of the Contractor's compliance with this Contract. The Owner has requested that the Design Professional prepare documents for the Project, including the Drawings and Specifications for the Project Work, which are accurate, adequate, consistent, coordinated, and sufficient for construction. *HOWEVER, THE OWNER MAKES NO REPRESENTATION OR WARRANTY OF ANY NATURE WHATSOEVER TO THE CONTRACTOR CONCERNING SUCH DOCUMENTS.* The Contractor again hereby acknowledges and represents that it has received, reviewed, and carefully examined such documents; has found them to be complete, accurate, adequate, consistent, coordinated and sufficient for construction; and that the Contractor has not, does not and will not rely upon any representations or warranties by the Owner concerning such documents, as no such representations or warranties have been or are hereby made.
- 3.9 In the event of any conflict among any of the documents which make up this Contract, the Design Professional shall interpret the documents, and the interpretation shall be binding on both the Owner and Contractor; provided, however, that this does not change the Owner's right to make decisions regarding Objections in accordance with Article 13 and Article 14. If no interpretation is provided by the Design Professional, the most stringent requirement in the Contract Documents will apply.

ARTICLE 4 OWNERSHIP OF DOCUMENTS

- 4.1 Unless otherwise agreed by the Design Professional and its consultants, the party that prepared the drawings, specifications and other documents is the author of such with all copyright, common law, statutory and other reserved rights. The Contractor may retain one (1) record set of the Drawings and Specifications and other documents but shall not own or claim any copyright in them.

The Drawings and Specifications and other documents, and any copies, are to be used solely for this project (the "Project"), and not on any other project, or additions to this Project outside this Contract, without written consent of the Owner, the Design Professional, and the Design Professional's consultants; provided, however, that copies may be made of applicable portions as necessary for completion of the Work. Such copies shall include any copyright notice on the Drawings and Specifications and other documents.

Submission to or use by a regulatory body related to this Project is an acceptable use.

ARTICLE 5 CONTRACTOR'S PERFORMANCE

The Contractor shall perform all the Work required, implied or reasonably inferable from this Contract, including the following:

- 5.1 Construction of the Project.
- 5.2 The furnishing of any required surety bonds and insurance.

- 5.3 The provision or furnishing, and prompt payment therefore, of labor, supervision, services, materials, supplies, equipment, fixtures, appliances, facilities, tools, transportation, storage, power, fuel, heat, light, cooling, or other utilities required for construction and all necessary permits, including any required elevator permits, required for the construction of the Project. Construction projects for the State of Idaho require a building permit issued by the Division of Occupational and Professional Licenses.
- 5.4 The creation and submission of a detailed and comprehensive set of marked up blue or black-lined record drawings. Said record drawings shall be submitted to and approved by the Design Professional as a condition precedent to final payment to the Contractor.
- 5.5 The Contractor is solely liable for theft or damage of materials and equipment stored on the Worksite but not yet installed in the facility. The Contractor shall protect and replace any loss of materials due to theft or damage, until final acceptance of the Project.

ARTICLE 6 TIME FOR CONTRACTOR'S PERFORMANCE

- 6.1 The Contractor shall commence the performance of this Contract in accordance with the "Notice to Proceed" (Exhibit F) issued by the Owner and shall diligently continue its performance to and until final completion of the Project. The Contractor shall accomplish Substantial Completion of the Project on or before the time indicated in Exhibit A. The period of time, including any adjustments made under this Contract, for the Contractor to reach Substantial Completion is the "Contract Time."
- 6.2 The Contractor may be assessed by and be responsible to the Owner for the amount indicated in Exhibit A per day for each and every calendar day of unexcused delay in achieving Substantial Completion beyond the date set forth for Substantial Completion. Any sums owed hereunder by the Contractor shall be payable not as a penalty but as liquidated damages, representing an estimate of delay damages likely to be sustained by the Owner estimated at the time of this Contract. When the Owner reasonably believes that Substantial Completion will be inexcusably delayed, the Owner shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the Owner to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving Substantial Completion, or any part thereof, for which the Owner has withheld payment, the Owner shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages. The Owner's right to liquidated damages is not, and shall not be deemed to be, an exclusive remedy for delay and the Owner shall retain all remedies at law or in equity for delay or other breach.
- 6.3 The term "Substantial Completion," as used herein, shall mean that point at which, as certified in writing by the Design Professional, or if there is no Design Professional, as certified by the Owner, the entire Project is at a level of completion in strict compliance with the Contract Documents, such that the Owner or its designee can enjoy beneficial use or occupancy and can use or operate it in all respects for its intended purpose. If, in the reasonable determination of the Owner, receipt of operation and maintenance manuals or completion of training is necessary for such beneficial use or occupancy, then there shall be no Substantial Completion until such manuals are provided or such training is completed. Partial use or occupancy of the Project shall not result in the Project being deemed substantially complete, or accepted as substantially complete, and such partial use or occupancy shall not be evidence of Substantial Completion. The Project shall not be deemed accepted until it is finally complete.

****INCLUDE THE FOLLOWING WHEN THE PROJECT SCOPE INCLUDES SIGNIFICANT ROOFING-REROOFING WORK (EXCLUDES SIMPLE PATCH AND REPAIR WORK AND ASPHALT SHINGLE WORK.)****

6.4 The following are prerequisites for Substantial Completion of any roofing:

- (a) All roofing materials complete, in place, and watertight.
- (b) All flashings and counter-flashings complete, in place and watertight, with all anchors, connections, and sealants, etc. installed.
- (c) All roofing accessories required by the Contract Documents complete, in place, and operable together with all anchors, fastening devices, etc.
- (d) All excess materials, debris, equipment, tools, etc. removed from site and roof surface cleaned of all debris.
- (e) All roof drains and piping cleaned and fully functional.
- (f) All mechanical and electrical equipment connected and fully operable.

6.5 Any request by the Contractor for an extension of the Contract Time must be made in accordance with, and is subject to, Article 13, Article 14 related to Objections, and Article 16.

6.6 The Owner shall have no liability of any kind to the Contractor if a schedule or other document submitted by the Contractor shows an intention to complete the Work prior to the scheduled completion date and for any reason other than Owner caused delay, the Contractor is not able to achieve such early completion.

ARTICLE 7
FIXED PRICE AND CONTRACT PAYMENTS

7.1 The Owner shall pay, and the Contractor shall accept, as full and complete payment for the Contractor's timely performance of its obligations hereunder, the Fixed Price Contract Amount indicated in Exhibit A. The Fixed Price Contract Amount shall not be modified except as provided in this Contract.

7.2 Prior to approval of the contract, the Contractor shall prepare and present to the Owner and the Design Professional the Contractor's Schedule of Values apportioning the Fixed Price Contract Amount among the different elements of the Project for purposes of periodic and final payment. The Contractor's Schedule of Values shall be presented in the Owner's web-based construction management software. The Contractor shall not imbalance its Schedule of Values nor artificially inflate any element thereof. The violation of this provision by the Contractor shall constitute a material breach of this Contract. The Contractor's Schedule of Values will be utilized for the Contractor's requests for payment but shall only be utilized after it has been approved in writing by the Design Professional.

7.3 The Owner shall pay the Fixed Price Contract Amount to the Contractor in accordance with the procedures set forth in this Article. The Contractor shall submit a Contractor's Request for Payment, on or before the day of each month indicated in Exhibit A or otherwise agreed to, after commencement of performance, but no more frequently than once monthly. Said payment request shall be on made in the Owner's web-based construction management software and shall include whatever supporting information as may be required by the Design Professional, the Owner or both. Therein, the Contractor may request payment for one hundred percent (100%) of the Work satisfactorily completed to the date of the Contractor's Request for Payment, less five percent (5%) retainage, based on the Fixed Price Contract Amount allocated on the Schedule of Values. The Contractor's Request for Payment may include only: properly provided labor, materials or equipment properly incorporated into the Project, and time and materials or equipment necessary for the Project or that will be incorporated into the Project and are properly stored at the Project site (or elsewhere if off-site storage is approved in writing by the Owner). The Contractor's Request for Payment must exclude the total amount of previous payments received from the Owner. Any payment on account of stored materials or equipment will be subject to the Contractor providing written proof that the Owner has title to such materials or equipment and that they are fully insured against loss or damage. Each such Contractor's Request for Payment shall be signed by the Contractor and its submission shall constitute the Contractor's affirmative representation that the quantity of Work has reached the level for which payment is requested; that the Work has been properly installed or performed in strict compliance with the Contract; that all Work for which the Owner has previously paid is free and clear of any lien, claim or other encumbrance of any person whatsoever; and that the Contractor knows of no reason why payment should not be made as requested. As a condition precedent to payment, the Contractor shall, if required by the Owner, furnish to the Owner properly executed waivers or releases, in a form acceptable to the Owner, from all subcontractors, materialmen, suppliers or others having any claims or alleged claims, wherein said subcontractors, materialmen, suppliers or others shall acknowledge receipt of all sums due pursuant to all prior Contractor's Requests for Payment, and waive and relinquish any rights or other claims relating to the Project or Project site. The submission by the Contractor of the Contractor's Request for Payment also constitutes the Contractor's affirmative representation that, upon payment of the Contractor's Request for Payment submitted, title to all Work included in such payment shall be vested in the Owner.

Thereafter, the Design Professional shall review the Contractor's Request for Payment and may also review the Work at the Project site or elsewhere to determine whether the quantity and quality of the Work are as represented in the Contractor's Request for Payment and as required by this Contract. The Design Professional shall approve in writing the amount which, in the opinion of the Design Professional, is properly owing to the Contractor and such approval is required before the Owner shall have any payment obligation. The Design Professional may withhold such approval, in whole or in part, as necessary to protect the Owner if it reasonably believes that the quantity or quality of the Work is not as represented in the Contractor's Request for Payment or is not in strict conformance to the Contract Documents.

7.4 The Owner shall make payment to the Contractor no more than forty-five (45) days following receipt by the Owner of the Design Professional's written approval of each Contractor's Request for Payment. The amount of each such payment shall be the amount approved for payment by the Design Professional less such amounts, if any, otherwise owing by the Contractor to the Owner or which the Owner shall have the right to withhold as authorized by this Contract. The Design Professional's approval of the Contractor's Request for Payment shall not preclude the Owner from

the exercise of any of its rights it may have in this Contract, at law or in equity, as set forth in Paragraph 7.8 hereinafter.

7.5 Off-site storage will not be approved at locations more than thirty (30) miles from the Project site or outside the State of Idaho and any payment for any off-site storage is subject to the following:

- (a) The Contractor must provide at least thirty (30) days' advance written notice of its request to store off-site. Such notice must include a description of the type, quantities, locations, and values of materials involved for the next billing cycle. All invoices must indicate the type, quantities and value of materials or equipment for which payment is requested;
- (b) All materials stored off-site must be segregated and clearly marked with the DPW Project number and as being the "Property of the State of Idaho;"
- (c) The Design Professional and/or the Owner's Field Representative must have unrestricted access to the stored materials during all business hours and may physically inventory all invoiced materials and equipment and may physically inspect the storage conditions;
- (d) The Contractor must provide written Consent of Surety to off-site storage of materials and equipment and to payment for such materials and equipment prior to incorporation in the Work. Consent must be from the Surety. Consent of local broker or agent is not acceptable;
- (e) The Contractor must maintain and must provide to the Design Professional, upon request, a current log of stored materials and equipment, which reflects when materials and equipment are used or added; and
- (f) The Contractor must obtain and maintain all risk property insurance at replacement cost, with the State of Idaho listed as loss payee on all materials and equipment stored off-site and in transit.

7.6 When payment is received from the Owner, the Contractor shall immediately pay all subcontractors, materialmen, laborer(s), and suppliers the amounts they are due for the Work covered by such payment. The Contractor shall not withhold from a subcontractor or supplier more than the percentage withheld from a payment certificate for the subcontractor's or supplier's portion of the Work. In the event the Owner becomes informed that the Contractor has not paid a subcontractor, materialmen, laborer, or supplier as provided herein, the Owner shall have the right, but not the duty, to issue future checks and payment to the Contractor of amounts otherwise due hereunder naming the Contractor and any such subcontractor, materialmen, laborer or supplier as joint payees. Such joint check procedure, if employed by the Owner, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit the Owner to repeat the procedure in the future.

7.7 Payment to the Contractor, utilization of the Project for any purpose by the Owner, or any other act or omission by the Owner shall not be interpreted or construed as an acceptance of any Work of the Contractor not strictly in compliance with this Contract.

7.8 The Owner shall have and be entitled to the right to refuse to make any payment, including by reducing payment under any Contractor's Request for Payment, and, if necessary, may demand the return of a portion or all of an amount previously paid to the Contractor for reasons that include the following:

- (a) The quality of the Contractor's Work, in whole or part, is not in strict accordance with the requirements of this Contract or identified defective Work, including punch list Work, is not remedied as required by the Contract Documents;
- (b) The quantity of the Contractor's Work, in whole or in part, is not as represented in the Contractor's Request for Payment or otherwise;
- (c) The Contractor's rate of progress is such that, in the Owner's opinion, Substantial Completion or final completion, or both, may be inexcusably delayed or that the Owner will incur additional costs or expense related to repeated Substantial Completion or final completion inspections through no fault of the Owner;
- (d) The Owner reasonably believes that the Contractor has failed to use Contract funds, previously paid the Contractor by the Owner, to pay Contractor's project-related obligations, including subcontractors, laborers and material and equipment suppliers;
- (e) There are claims made or it seems reasonably likely that claims will be made, against the Owner;
- (f) The Contractor has caused a loss or damage to the Owner, the Design Professional or another contractor;
- (g) The Owner reasonably believes that the Project cannot be completed for the unpaid balance of the Fixed Price Contract Amount, or the Owner reasonably believes that the Project cannot be completed within the Contract Time and that the unpaid balance of the Fixed Price Contract Amount would be inadequate to cover the cost of actual or liquidated damages for the anticipated delay;
- (h) The Contractor fails or refuses to perform any of its obligations to the Owner; or
- (i) The Contractor fails to pay taxes as required by Title 63, Chapter 15, Idaho Code.

7.9 In the event that the Owner makes a written demand upon the Contractor for amounts previously paid by the Owner as contemplated in Paragraph 7.8, the Contractor shall promptly comply with such demand.

7.10 If the Owner, without cause, fails to pay the Contractor any amounts due and payable sixty (60) days after those amounts are due pursuant to Paragraph 7.4, the Contractor shall have the right to cease the Work until receipt of proper payment. Contractor must first provide written notice to the Owner of the Contractor's intent to cease the Work ten (10) days prior to stopping the Work under this Paragraph. If any amounts remain unpaid after sixty (60) days after the Design Professional approves the Contractor's Request for Payment under Paragraph 7.4, interest in accordance with Idaho Code § 67-2302 shall accrue on those unpaid amounts.

7.11 When the Contractor considers Substantial Completion has been achieved, the Contractor shall notify the Owner and the Design Professional in writing and shall furnish to the Design Professional a listing of those matters yet to be finished. The Design Professional will thereupon conduct an inspection to confirm that the Work is, in fact, substantially complete. Upon its confirmation that the Contractor's Work is substantially complete, the Design Professional will so notify the Owner and Contractor in writing and will therein set forth the date of Substantial Completion. The Owner

and the Contractor must accept the date of Substantial Completion in writing. Guarantees and warranties required by this Contract shall commence on the date of Substantial Completion. At the Contractor's Request for Payment following Substantial Completion, the Owner shall pay the Contractor an amount sufficient to increase total payments to the Contractor to ninety-five percent (95%) of the Fixed Price Contract Amount, less any liquidated damages, less the reasonable costs as determined by the Design Professional for completing all incomplete Work, correcting and bringing into conformance all defective and nonconforming Work, and handling any outstanding or potential claims. If the Design Professional determines that the Contractor has made or is making satisfactory progress on any uncompleted portions of the Work, the Owner may, at its discretion, release a portion of the retainage to the Contractor prior to the actual final completion of the conditions set forth in Paragraph 7.14. It is the intent of the parties that the Project will be accepted only in total (at Substantial Completion and final completion) and not in phases unless provided for in Exhibit A. Any acceptance other than in total shall require written agreement of Owner and Design Professional.

7.12 When the Contractor considers the Project is at final completion, it shall notify the Owner and the Design Professional thereof in writing. Thereupon, the Design Professional will perform a final inspection of the Project. If the Design Professional confirms that the Project is complete in full accordance with the Contract Documents and that the Contractor has performed all of its obligations to the Owner, the Design Professional will furnish a final approval for payment to the Owner certifying to the Owner that the Project is complete and the Contractor is entitled to the remainder of the unpaid Fixed Price Contract Amount, less any amount withheld pursuant to this Contract.

7.13 If the Contractor fails to achieve final completion within a reasonable number of days as established by the Design Professional from the date of Substantial Completion, the Contractor may be assessed and be responsible to the Owner for fifty percent (50%) of the daily amount of liquidated damages as established pursuant to Paragraph 6.2 and Exhibit A, per day for each and every calendar day of unexcused delay in achieving final completion beyond the date established for final completion of the Work. Any sums due and payable hereunder by the Contractor shall be payable not as a penalty but as liquidated damages representing an estimate of delay damages likely to be sustained by the Owner, estimated at or before the time of executing this Contract. When the Owner reasonably believes that final completion will be inexcusably delayed, the Owner may withhold from any amounts otherwise due the Contractor an amount then believed by the Owner to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving final completion, or any part thereof, for which the Owner has withheld payment, the Owner shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages. The Owner's right to liquidated damages is not, and shall not be deemed to be, an exclusive remedy for delay and the Owner shall retain all remedies at law or in equity for delay or other breach.

7.14 As a condition precedent to final payment, the Contractor must furnish the Owner, in the form and manner required by Owner, and with a copy to the Design Professional of the following:

- (a) An affidavit that all of the Contractor's obligations to subcontractors, laborers, equipment or material suppliers or other third parties in connection with the Project have been paid or otherwise satisfied;
- (b) A release by the Contractor of all Claims it has or might have against the Owner or the Owner's property (DPW's form, Exhibit H);

- (c) Contractor's Affidavit of Debts and Claims (AIA Document G706);
- (d) Consent of Surety to final payment (AIA Document G707);
- (e) Confirmation of all required training, product warranties, operating manuals, instruction manuals and other record documents, drawings and things customarily required of the Contractor; and
- (f) A Public Works Contract Tax Release issued by the Idaho Tax Commission (See "Request for Tax Release" form, Exhibit G, to be submitted by Contractor to the Idaho Tax Commission).

7.15 The Owner shall, subject to its rights set forth in this Contract, make final payment of all sums due to the Contractor within forty-five (45) days of the Design Professional's execution of a final approval for payment and receipt of documentation required by Paragraph 7.14, whichever is received later.

ARTICLE 8 INFORMATION AND MATERIAL SUPPLIED BY THE OWNER

- 8.1** The Administrator of DPW or designee shall be the sole representative of the State of Idaho. The Design Professional shall have authority to bind Owner only as specifically set forth in this Contract.
- 8.2** The Owner will assign a Project Manager and a Field Representative to represent the Owner, identified in Exhibit B. The Owner's Field Representative's duties, responsibilities and limitations of authority are in accordance with DPW's policies and procedures.
- 8.3** The Owner shall furnish to the Contractor, prior to the execution of this Contract, any and all written and tangible material in its possession concerning conditions below ground at the site of the Project. Such written and tangible material is furnished to the Contractor only to make complete disclosure of such material as being in the possession of the Owner and for no other purpose. By furnishing such material, the Owner does not represent, warrant, or guarantee its accuracy, either in whole or in part, implicitly or explicitly.
- 8.4** The Owner will secure and pay for all required easements, the plan check fee required by the Division of Occupational and Professional Licenses, conditional use permits and any other permits and fees specifically indicated in the Contract Documents to be secured and paid for by the Owner.
- 8.5** The Owner will provide the Contractor one (1) copy of this complete Contract and the number of sets of Drawings and Project Manuals (including Specifications) as indicated in Exhibit A. The Contractor may purchase additional copies, at its expense, from the Design Professional.

ARTICLE 9 STOP WORK ORDER

- 9.1** In the event the Contractor fails or refuses to perform the Work as required or fails or refuses to correct nonconforming Work, the Owner may instruct the Contractor to stop Work in whole or in part. Upon receipt of such instruction, the Contractor shall immediately stop as instructed by the Owner and shall not proceed further until the cause for the Owner's instructions has been corrected,

no longer exists or the Owner instructs that the Work may resume. In the event the Owner issues such instructions to stop, and in the further event that the Contractor fails and refuses within seven (7) days of receipt of same to provide adequate assurance to the Owner that the cause of such instructions will be eliminated or corrected, then the Owner shall have the right, but not the obligation, to carry out the Work with its own forces or with the forces of another contractor, and the Contractor shall be fully responsible and liable for the costs of performing such Work by the Owner. Without limiting what else might constitute nonconforming Work, the existence of a gross safety violation or other situation or condition that creates, or could imminently create, a threat of serious harm to persons or property, shall constitute nonconforming Work and any order to stop the Work issued for such reason shall not be considered an interference with the Contractor's performance of the Work or its means and methods. The rights set forth herein are in addition to, and without prejudice to, any other rights or remedies the Owner may have against the Contractor.

9.2 Any order to stop the Work issued pursuant to Paragraph 9.1 shall not be used to justify any Claim by the Contractor for additional time or money.

ARTICLE 10

DUTIES, OBLIGATIONS AND RESPONSIBILITIES OF THE CONTRACTOR

In addition to any and all other duties, obligations and responsibilities of the Contractor set forth in this Contract, the Contractor shall have and perform the following duties, obligations and responsibilities to the Owner:

10.1 The Contractor's continuing duties set forth in Paragraph 3.7 are by reference hereby incorporated in this Paragraph 10.1. The Contractor shall not perform Work without adequate plans and specifications or, as appropriate, approved shop drawings or other submittals. If the Contractor performs Work knowing or believing it involves an error, inconsistency, or omission in the Contract without first providing written notice to the Design Professional and Owner, the Contractor shall be responsible for such Work and shall pay the cost of correcting same.

10.2 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing Work. Errors, inconsistencies, or omissions discovered shall be reported to the Design Professional, the Owner and the Owner's Field Representative immediately. Such examination, review and comparison shall be a warranty that the Contract Documents are complete, and the Project is buildable as described except as reported. Reported errors, inconsistencies or omissions will constitute a request for an interpretation by the Design Professional and may constitute an objection pursuant to Article 14 hereof where appropriate.

10.3 The Contractor shall ensure that all Work shall strictly conform to the requirements of this Contract.

10.4 The Work shall be strictly supervised, the Contractor bearing full responsibility for any and all acts or omissions of those engaged in the Work on behalf of the Contractor.

10.5 All labor furnished on this Project shall be competent to perform the tasks undertaken; materials and equipment furnished under the Contract will be new and of high quality unless otherwise required or permitted by the Contract Documents; the Work will be complete, of high quality and free from defects not inherent in the quality required or permitted; and the Work will strictly conform to the

requirements of the Contract Documents. Any Work not strictly conforming to these requirements, including substitutions not properly approved and authorized, shall be considered defective.

- 10.6 Except as provided in Paragraph 8.4, the Contractor shall secure or provide and pay for all licenses, permits required by the Idaho Division of Occupational and Professional Licenses , governmental approvals and inspections, connections for outside services for the use of municipal or private property for storage of materials, parking, utility services, temporary obstructions, enclosures or opening and patching of streets, and for all other facilities and services necessary for proper execution and completion of the Project.
- 10.7 The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on performance of the Work.
- 10.8 The Contractor shall employ and maintain at the Project site only competent supervisory personnel. Key supervisory personnel assigned by the Contractor to this Project are as listed in Exhibit B.
- 10.9 The Contractor shall employ a competent superintendent and necessary assistants, as needed, to oversee execution of the Work. The superintendent shall be in attendance at the Project site during the progress of the Work. The superintendent and any project manager, if the Contractor utilizes a project manager, shall be reviewed and must be approved by the Design Professional and Owner, and neither shall be changed except with the consent of the Design Professional and Owner, unless the superintendent and/or project manager cease to be employed by the Contractor. Under this circumstance, any new superintendent or new project manager must be satisfactory to the Design Professional and Owner. Such approval shall not be unreasonably withheld. The superintendent and any project manager shall represent the Contractor and all communications given to the superintendent or project manager are deemed given to the Contractor.
- 10.10 So long as the individuals named above remain actively employed or retained by the Contractor, they shall perform the functions indicated next to their names unless the Owner agrees to the contrary in writing. In the event one or more individuals not listed in Paragraph 10.9 subsequently assumes one or more of those functions listed in Paragraph 10.9, the Contractor shall be bound by the provisions of this paragraph as though such individuals had been listed in Paragraph 10.9.
- 10.11 The Contractor shall provide to the Owner and the Design Professional a milestone schedule for completing the Work within the Contract Time. Such schedule shall be in a form specified in Division 1 of the Specifications and be acceptable to the Owner and to the Design Professional. The schedule must be submitted to and accepted by the Design Professional prior to the first request for payment unless required earlier by Division 1 of the Specifications. The Contractor's milestone schedule must be updated as required by the Design Professional and/or the Owner to reflect conditions encountered and shall apply to the total Project. The Contractor's revisions to the schedule shall not constitute a waiver of the requirement to complete the Project in the time allowed by the Contract unless additional time for performance has been allowed pursuant to a Change Order. Any changes in milestone start or end dates must be furnished to the Owner and the Design Professional. Strict compliance with the requirements of this Paragraph shall be a condition precedent to the payment to the Contractor and failure by the Contractor to strictly comply with said requirements shall constitute a material breach of this Contract.
- 10.12 Unless otherwise provided in the Contract Documents, on all projects where the Fixed Price Contract Amount is over \$1,000,000, the Contractor shall schedule and perform the Work in

accordance with a Critical Path Method (“CPM”) to indicate the rate of progress and practical order of the Project. The purpose of this scheduling requirement is to ensure adequate planning, coordination, and execution of the Work. The schedule shall indicate the dates for starting and completing major Work activities, project events, major equipment, material and equipment submittals and delivery of major items. Project activities having critical time restraints on action, required by the Owner, shall be shown as scheduled milestones. The Contractor's schedule shall demonstrate the order, interdependence, and sequence of activities. Critical paths shall be highlighted or distinguished. The schedule shall include all the dates specified in the Contract for Substantial Completion and final completion of the Work. The time limit set forth in the Contract for Substantial Completion and final completion must govern; the schedule must be adjusted to meet these dates. Schedule float shall belong to the Project. The Contractor shall submit to the Owner and Design Professional a CPM schedule within three (3) weeks after award of the Contract and maintain such schedule on a current basis in accordance with the Contract Documents.

- 10.13** Once a month, or at intervals as required by the Design Professional, the Contractor shall advise the Owner and the Design Professional of the status of the Work (in duplicate) on the current milestone schedule. If any project milestone dates are not met on schedule, the Contractor shall immediately advise the Owner and Design Professional in writing of the proposed action to bring the Work on schedule. The Contractor shall also submit a detailed short-term schedule, as required by Division 1 of the Specifications, each month. This short-term schedule shall include a description of current and anticipated problem areas, delaying factors and their impact, and explanation of corrective action taken or proposed. If the Work is behind schedule, the Contractor shall indicate what measures it will take to put the Work back on schedule.
- 10.14** If the Work is not progressing through no fault of the Owner or the Design Professional, as shown on the milestone schedule, as determined by the Design Professional, and the Owner and the Design Professional do not believe the Contractor's proposed action to bring the Work on schedule is adequate, then the Contractor shall be deemed in default under this Contract and the progress of the Work shall be deemed unsatisfactory. In such event, the Owner, at its discretion, may require the Contractor to Work such additional time over regular hours, including Saturdays, Sundays, and holidays, without additional cost to the Owner to bring the Work on schedule.
- 10.15** The Contractor shall keep an updated copy of the Drawings and Project Manual (including Specifications) and Addenda at the site. Additionally, the Contractor shall keep a current submittal schedule and a copy of approved shop drawings and other submittals. All these items shall be available to the Owner and the Design Professional at all regular business hours. Upon final completion of the Work, all these items must be updated by the Contractor and provided to the Design Professional and shall become the property of the Owner.
- 10.16** The Contractor shall carefully review and inspect for compliance with the Contract Documents, the shop drawings, and other submittals (including product data and samples) required by the Contract Documents and shall submit to the Design Professional only submittals approved in accordance with this section. Such review and submittal shall be done promptly and in a sequence that will not delay its Work under this Contract or the activities of the Owner or of separate contractors. Shop drawings and other submittals from the Contractor do not constitute a part of the Contract. The Contractor shall not do any Work requiring shop drawings or other submittals unless the Design Professional has verified compliance in writing. All Work requiring verified shop drawings or other submittals shall be done in strict compliance with such approved documents. However, verification of compliance by the Design Professional shall not be evidence that Work installed pursuant thereto

conforms with the requirements of this Contract. The Design Professional shall have no duty to review submittals that are not Contractor approved, partial submittals or incomplete submittals. The Contractor shall maintain a submittal log which shall include, at a minimum, the date of each submittal, the date of any re-submittal, the date of any approval or rejection and the reason for any rejection.

10.17 The Contractor shall maintain the Project site in a reasonably clean condition during performance of the Work. Upon final completion, the Contractor shall thoroughly clean the Project site of all debris, trash and excess materials or equipment.

10.18 At all times relevant to this Contract, the Owner and the Design Professional shall have a right to enter the Project site and the Contractor shall allow the Owner and/or the Design Professional to review or inspect the Work without formality or other procedure.

10.19 The presence or duties of the Design Professional's or the Owner's personnel or representatives at the construction site, does not make any of them responsible for those duties that belong to the Contractor or other entities and does not relieve the Contractor or any other entities of their obligations, duties, and responsibilities, including any obligation or requirement to have or to implement any health or safety plans or precautions. Except as provided in Paragraph 10.9, Design Professional's and Owner's personnel have no authority to exercise any control over any Contractor or other entities or their employees in connection with their Work or any health or safety precautions and have no duty for inspecting, noting, observing, correcting, or reporting on health or safety deficiencies of the Contractor or other entities or any other persons at the site except their own personnel. The presence of Design Professional's or Owner's personnel at a construction site is for the purpose of providing to Owner a greater degree of confidence that the completed Work will conform to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by the Contractor. Construction sites include places of manufacture for materials incorporated into the construction Work and Contractor includes manufacturers of materials incorporated into the construction Work.

ARTICLE 11 SAVE HARMLESS AND INDEMNIFICATION

11.1 The Contractor shall indemnify, defend and hold harmless the State of Idaho, Division of Public Works, its officers, agents, employees, and the Idaho State Building Authority [if applicable], from and against all liability, claims, damages, losses, expenses, actions, settlements, attorneys' fees, and suits whatsoever caused by, arising out of, or in connection with Contractor's acts or omissions under this Agreement or the Contractor's failure to comply with any State or federal statute, law, regulation, or rule.

11.2 Upon receipt of the State's tender of indemnity and defense, Contractor shall immediately take all reasonable actions necessary, including, but not limited to providing a legal defense for the State, to begin fulfilling its obligation to indemnify, defend, and save harmless the State. Contractor's indemnification and defense liabilities described herein shall apply regardless of any allegations that a claim or suit is attributable in whole or in part to any act or omission of the State under this Agreement. Contractor shall not be required to hold the State harmless for damages attributed to the State in a final order issued by a court of competent jurisdiction.

11.3 Any legal defense provided by the Contractor to the State under this Section must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Any

attorney appointed to represent the State must first qualify as and be appointed by the Attorney General of the State of Idaho as a Special Deputy Attorney General pursuant to Idaho Code sections 67-1401(13) and 67-1409(1). The State must approve all settlement offers and agreements made on its behalf and has the option to attend any settlement or alternative dispute resolution proceedings.

ARTICLE 12 THE DESIGN PROFESSIONAL

12.1 The Design Professional for this Project is identified in Exhibit B, incorporated herein by reference, along with any authorized representatives and any limitations of responsibility. For the purpose of this Contract, the “Design Professional” means the properly licensed architect, properly registered professional engineer or other professional licensed in the State of Idaho who prepared the Drawings and Specifications for this Project. If the employment of the Design Professional is terminated, the Owner may retain a replacement professional, and the role of the replacement professional shall be the same as the role of the Design Professional. Unless otherwise directed by the Owner in writing, the Design Professional will perform those duties and discharge those responsibilities allocated to the Design Professional in this Contract. The duties, obligations and responsibilities of the Design Professional shall be for contract administration and include the following:

- (a) Unless otherwise directed by the Owner in writing, the Design Professional shall not act as the Owner's agent.
- (b) Unless otherwise directed by the Owner in writing, the Owner and the Contractor shall communicate with each other through the Design Professional.
- (c) When requested by the Owner or Contractor in writing, the Design Professional shall within seven (7) days render written interpretations necessary for the proper execution or progress of the Work or shall provide a written explanation as to why more time is needed and provide a date by which it will be provided.
- (d) The Design Professional shall draft proposed change authorization(s).
- (e) The Design Professional shall review and verify compliance or respond otherwise as necessary concerning shop drawings or other submittals received from the Contractor.
- (f) The Design Professional shall be authorized to refuse to accept Work that is defective or otherwise fails to comply with the requirements of this Contract. If the Design Professional deems it appropriate, the Design Professional may, with the Owner's consent, require extra inspections or testing of the Work for compliance with the requirements of this Contract.
- (g) The Design Professional shall review the Contractor's Request for Payment and shall verify in writing those amounts which, in the opinion of the Design Professional, are properly owing to the Contractor as provided in this Contract.
- (h) The Design Professional shall, upon written request from the Contractor, perform Substantial Completion and final completion inspections contemplated by Article 6.
- (i) The Design Professional may require the Contractor to make changes which do not involve a change in the Fixed Price Construction Contract Amount or time consistent with the intent of this Contract. Such changes shall be given to the Contractor in writing under signature of

the Design Professional, with a copy to the Owner, and may be in the form of a supplemental instruction.

- (j) The Design Professional shall review and evaluate Objections and take other actions related to Claims in accordance with Articles 13, 14, and 16.
- (k) The duties, obligations and responsibilities of the Contractor under this Contract shall in no manner whatsoever be changed, altered, discharged, released, or satisfied by any duty, obligation or responsibility of the Design Professional. The Contractor is not a third-party beneficiary of any Contract by and between the Owner and the Design Professional. It is expressly acknowledged and agreed that the duties of the Contractor to the Owner are independent of, and are not diminished by, any duties of the Design Professional to the Owner.

ARTICLE 13

OWNER'S NOTIFICATION TO CONTRACTOR OF NON-CONFORMING WORK

- 13.1** The Owner, Owner's Representative, or the Design Professional shall notify the Contractor of non-conforming work, which shall include work that deviates from the Contract Documents ("Non-Conforming Work"). Non-Conforming Work shall be determined in the sole discretion of the Owner or Design Professional. The notice shall be in writing or verbally at the regular construction progress meetings as soon as reasonably practicable and documented in the minutes.
- 13.2** This section shall not limit the Owner's remedies under this Agreement.
- 13.3** Contractor shall fix Non-Conforming Work to Owner's satisfaction or the Contractor may file an Objection pursuant to the requirements in Article 14.
- 13.4** The Contractor must demonstrate to Owner, Owner's Representative or the Design Professional that Non-Conforming work has been corrected prior to covering or concealing the work.

ARTICLE 14

CONTRACTOR'S OBJECTIONS

- 14.1** For purposes of this Contract, an "Objection" means a demand by the Contractor to the Owner or Design Professional for a change in the Fixed Price Contract Amount, an extension of the Contract Time, an adjustment to or interpretation of the Contract terms, change to Contract Documents, or other relief with respect to the terms of the Contract, which demand the Contractor or Owner asserts is required or allowed under the Contract Documents and which the Contractor and the Owner, or Contractor and Design Professional have previously discussed and failed to agree upon.
- 14.2** For the Objection to be considered, it must meet the following requirements:
 - (a) The Objection must be in writing;
 - (b) The Objection by the Contractor must be signed by an authorized representative of the Contractor;

- (c) The Objection by the Contractor must be provided to the Owner and to the Design Professional;
- (d) The Objection must be made no later than ten (10) days after the event or first appearance of the circumstance giving rise to the Objection;
- (e) The Objection must describe in detail all known facts and circumstances that the Contractor asserts support the Objection;
- (f) The Objection must refer to the provision(s) of the Contract Documents that the Contractor asserts support the Objection;
- (g) The Contractor must provide all documentation or other information to substantiate the Objection; and
- (h) The Contractor must continue its performance under this Contract pending the resolution of any Objection; provided, however, that the Contractor shall not perform any additional or changed work not otherwise authorized in accordance with the Contract Documents.

14.3 The failure by the Contractor to meet any of the requirements of Paragraph 14.2 shall constitute a complete waiver by the Contractor of any rights arising from or related to the Objection.

14.4 If the Objection is made based on concealed or unknown site conditions, the following shall apply in addition to all other provisions applicable to the Objection:

- (a) The condition must have been previously concealed and unknown or of a type not ordinarily encountered in the general geographic location of the Project and must not have been reasonably susceptible to discovery; and
- (b) The Contractor shall notify the Design Professional and the Owner of the condition and shall not disturb the condition until the Design Professional and Owner have observed it or have waived in writing the right to observe it.

14.5 If the Objection by the Contractor is for an increase in the Fixed Price Contract Amount, the following shall apply in addition to all other provisions applicable to the Objection:

- (a) Any increase in the Fixed Price Contract Amount shall be strictly limited to the direct costs incurred by the Contractor and shall not include any other costs, indirect or other, including any costs for or related to lost productivity, profit, home office overhead and any other overhead, legal fees, Objection preparation, any matter previously resolved by a change order, equipment costs, costs related to the services of a project manager unless the project manager was required full time by the Owner or the Contract Documents, any costs associated with the failure to complete the Work early or in advance of the date required by the Contract Documents, it being specifically agreed to by the parties that there is no intention to have the Eichleay or other similar formula applicable to this Contract nor shall this Contract be deemed to be subject to any such formula; and
- (b) The Owner shall have no liability for, and the Fixed Price Contract Amount shall not be increased related to, any Objections of third parties, including subcontractors, unless and until the liability of the Contractor for such has been established in a court of competent

jurisdiction and any such liability of the Owner shall be limited in the same manner as described in subparagraph 14.5 (a).

14.6 If the Objection by the Contractor is for an extension of the Contract Time, the following shall apply in addition to all other provisions applicable to the Objection:

- (a) The Contractor has been delayed in its performance by an act or omission of the Owner and through no fault of the Contractor;
- (b) The Contractor has been delayed in its performance by unusually severe weather that could not reasonably have been anticipated or by another event not within its reasonable control;
- (c) At the time it occurs or during its occurrence, the delay will preclude completion of the Project in the time required by the Contract Documents; and
- (d) Any extension of the Contract Time shall be the Contractor's sole and exclusive remedy for any delay except a delay caused by the active interference of the Owner with the Contractor's performance which active interference continues after written notice to the Owner. The Owner's exercise of any of its rights or remedies under this Contract, including ordering changes in the Work, directing suspension, rescheduling or correction of the Work, do not constitute active interference.

14.7 If an Objection is made based on an error, inconsistency or omission in the Contract that was reasonably susceptible to discovery by the Contractor and was not reported, then that Objection shall be denied.

14.8 All Objections made in accordance with this Article 14 shall be reviewed and evaluated by the Design Professional. If the Objection is not made in strict accordance with Article 14, it shall be rejected as waived. Any failure by the Design Professional to reject the Objection for failure to meet the requirements of Article 14 is not binding on the Owner and the Owner may reject the Objection for such failure.

14.9 No later than seven (7) days from receipt of the Objection by the Design Professional, they may either:

- (a) Make a written request to the Contractor or Owner for more data to support the Objection if desired;
- (b) Attempt to facilitate resolution of the Objection through informal negotiations; or
- (c) Make a written recommendation to the Owner, with a copy to the Contractor, that the Owner reject or approve all or part of the Objection and state the reasons for the Design Professional's recommendation.

14.10 If the Design Professional requests more data from the Contractor under subparagraph 14.9.(a), the Contractor shall respond no later than seven (7) days from receipt of such request, and provide additional data, provide a date certain by which additional data will be provided, or state that it will not provide additional data. Upon receipt of data, if any, in accordance with this section, the Design Professional will complete the evaluation of the Objection within seven days. Failure to respond at

all or failure to provide data by the date specified in the response to the request shall result in the Objection being evaluated based on the information in the Design Professional's possession.

- 14.11 In evaluating the Objection, the Design Professional may consult with the Contractor, the Owner or other persons with knowledge or expertise that may assist the Design Professional in its evaluation.
- 14.12 No later than fourteen (14) days after receipt by the Owner of the Design Professional's recommendation regarding the Contractor's Objection, the Owner shall, in writing, notify the Contractor and the Design Professional of its decision regarding the Objection.
- 14.13 The Owner's decision regarding the Contractor's Objection is binding on final between the Owner and the Contractor but is subject to mediation in accordance with this Contract. The Contractor must proceed with the Work under the terms of this Agreement and any decision made by the Owner pursuant to this Section; provided, however, that Contractor but may concurrently pursue any remedies available at law or under this Contract.

ARTICLE 15

SUBCONTRACTORS

- 15.1 A document in the form of Exhibit E shall be completed and submitted upon execution of this Contract and those subcontractors named therein shall match those subcontractors named in the Contractor's bid unless otherwise agreed to in writing by the Owner. Also, upon execution of this Contract by the Contractor, the Contractor shall identify to the Owner and the Design Professional, in writing, those parties intended as subcontractors on the Project not otherwise named in Exhibit E. The Owner shall, in writing, state any objections the Owner may have to one or more of such subcontractors. The Contractor shall not enter into a subcontract with an intended subcontractor with reference to whom the Owner objects. All subcontracts shall afford the Contractor rights against the subcontractor which correspond to those rights afforded to the Owner against the Contractor herein, including those rights of Contract Termination as set forth in this Contract. All subcontractors shall, throughout the duration of this Contract, be properly licensed as Idaho Public Works Contractors.
- 15.2 The Contractor conditionally assigns each of its subcontracts related to the Project to the Owner. All subcontracts between the Contractor and the subcontractors shall obligate the subcontractor to such conditional assignment. Upon a Termination by the Owner for cause under Paragraph 20.1, the Owner may accept such conditional assignment by written notification to the applicable subcontractor and to the Contractor. Such acceptance is subject to the rights of the Surety, if any, relating to the Contract.

ARTICLE 16

CHANGES IN THE WORK

16.1 General:

(a) Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive, or order for a minor change in the Work, subject to the limitations stated in this Article and elsewhere in the Contract Documents; and

(b) Changes in the Work shall be performed under applicable provisions of the Contract Documents and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

16.2 Change Orders:

- (a) “Change Order” is a written instrument prepared by the Design Professional and signed by the Owner, Contractor and Design Professional, stating their agreement upon: a change in the Work, any adjustment in the Fixed Price Contract Amount and any adjustment in the Contract Time;
- (b) Methods used in determining adjustments to the Fixed Price Contract Amount may include those listed in subparagraph 16.3.(d);
- (c) The amount allowed for overhead and profit on any Change Order is limited to the amounts indicated in subparagraph 16.3.(k);
- (d) Any Change Order prepared, including those arising by reason of the parties’ mutual agreement or by mediation, shall constitute a final and full settlement of all matters relating to or affected by the change in the Work, including all direct, indirect, and consequential costs associated with such change and any and all adjustments to the Fixed Price Contract Amount and Contract Time. In the event a Change Order increases the Fixed Price Contract Amount, the Contractor shall include the Work covered by such Change Order in the Contractor’s Request for Payment as if such Work were originally part of the Project and Contract Documents; and
- (e) By the execution of a Change Order, the Contractor agrees and acknowledges that it has had sufficient time and opportunity to examine the change in Work which is the subject of the Change Order and that it has undertaken all reasonable efforts to discover and disclose any concealed or unknown conditions which may to any extent affect the Contractor’s ability to perform in accordance with the Change Order. Aside from those matters specifically set forth in the Change Order, the Owner shall not be obligated to make any adjustments to either the Fixed Price Contract Amount or Contract Time by reason of any conditions affecting the change in Work addressed by the Change Order, which could have reasonably been discovered or disclosed by the Contractor’s examination.

16.3 Construction Change Directive (CCD):

- (a) “Construction Change Directive” is a written order prepared by the Design Professional and signed by the Owner and Design Professional directing a change in the Work prior to agreement on adjustment, if any, in the Fixed Price Contract Amount or Contract Time or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, the Fixed Price Contract Amount and Contract Time being adjusted accordingly;
- (b) A Construction Change Directive, within limitations, may also be used to incorporate minor changes in the Work agreed to by the Design Professional’s representative, the Owner’s Field Representative and the Contractor’s superintendent or project manager. The limits of

these representatives' authority with regard to Construction Change Directives shall be documented in writing by the Design Professional, Owner and Contractor;

- (c) A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order;
- (d) If the Construction Change Directive provides for an adjustment to the Fixed Price Contract Amount, the adjustment shall be based on one (1) of the following methods:
 - i. Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
 - ii. Unit prices stated in the Contract Documents or subsequently agreed upon;
 - iii. Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
 - iv. As provided in subparagraph 16.3.(g).
- (e) Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Design Professional in writing within forty-eight (48) hours of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Fixed Price Contract Amount or Contract Time;
- (f) A Construction Change Directive signed by the Contractor indicates the agreement of the Contractor therewith, including adjustment in Fixed Price Contract Amount and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be incorporated into a future Change Order;
- (g) If the Contractor does not respond promptly or disagrees with the method for adjustments in the Fixed Price Contract Amount or Contract Time, the method and the adjustment shall be determined by the Design Professional on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Fixed Price Contract Amount, an allowance for overhead and profit in accordance with subparagraph 16.3.(k). In such case of an increase in Fixed Price Contract Amount, and also under subparagraph 16.3.(d), the Contractor shall keep and present, in such form as the Design Professional may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this subsection shall be limited to the following:
 - i. Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom and Workers' compensation insurance;
 - ii. Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
 - iii. Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
 - iv. Costs of permit fees and sales, use or similar taxes related to the Work; and

- v. Additional costs of supervision and field office personnel directly attributable to the change.
- (h) The amount of credit to be allowed by the Contractor to the Owner for a deletion or change which results in a net decrease in the Fixed Price Contract Amount shall be for the actual net cost of the decrease, confirmed by the Design Professional. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change;
- (i) Pending final determination of the total cost of a Construction Change Directive to the Owner, amounts not in dispute for such changes in the Work shall be included in the Contractor's Request for Payment accompanied by a Change Order indicating the parties' agreement with part or all of such costs;
- (j) When the Owner and Contractor agree with the determination by the Design Professional concerning the adjustments in the Fixed Price Contract Amount and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order; and
- (k) For purposes of subparagraphs 16.2.(c) and 16.3.(g), the allowance for combined overhead, profit, bonds and insurance shall be limited as follows, unless otherwise provided in the Contract Documents:
 - i. For changes, the amount allowed for overhead, profit, bonds and insurance for the Contractor and all subcontractors of any tier combined shall not exceed fifteen percent (15%) of direct costs; or
 - ii. The Contractor will determine the apportionment between the Contractor and its subcontractors of allowable amounts of overhead, profit, bonds, and insurance.

16.4 The Design Professional will have authority to order minor changes in the Work not involving adjustment in the Fixed Price Contract Amount or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall occur by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

ARTICLE 17 DISCOVERING AND CORRECTING DEFECTIVE OR INCOMPLETE WORK

17.1 If the Contractor covers, conceals, or obscures its Work in violation of this Contract or in violation of a directive or request from the Owner or the Design Professional, such Work shall be uncovered and displayed for the Owner's or Design Professional's inspection upon request and shall be reworked at no cost in time or money to the Owner.

17.2 If any of the Work is covered, concealed, or obscured in a manner not addressed by Paragraph 17.1, it shall, if directed by the Owner or the Design Professional, be uncovered and displayed for the Owner's or Design Professional's inspection. If the uncovered Work conforms strictly with this

Contract, the costs incurred by the Contractor to uncover and subsequently replace such Work shall be borne by the Owner. Otherwise, such costs shall be borne by the Contractor.

17.3 The Contractor shall, at no cost in time or money to the Owner, promptly correct Work (fabricated, installed or completed) rejected by the Owner or by the Design Professional as defective or that fails to conform to this Contract whether discovered before or after Substantial Completion. Additionally, the Contractor shall reimburse the Owner for all testing, inspections and other expenses incurred as a result thereof.

17.4 In addition to any other warranty obligations in this Contract, the Contractor shall be specifically obligated to correct, upon written direction from the Owner, any and all defective or nonconforming Work for a period of twelve (12) months following Substantial Completion.

17.5 The Owner may, but shall in no event be required to, choose to accept defective or nonconforming Work. In such event, the Fixed Price Contract Amount shall be reduced by the lesser of:

- (a) the reasonable costs of removing and correcting the defective or nonconforming Work; or
- (b) the difference between the fair market value of the Project as constructed and the fair market value of the Project had it not been constructed in such a manner as to include defective or nonconforming Work. If the remaining portion of the unpaid Fixed Price Contract Amount, if any, is insufficient to compensate the Owner for the acceptance of defective or nonconforming Work, the Contractor shall, upon written demand from the Owner, pay the Owner such remaining compensation for accepting defective or nonconforming Work.

ARTICLE 18 TERMINATION BY THE CONTRACTOR

18.1 The Contractor may terminate the Contract if the Work is stopped for a period of ninety (90) consecutive days through no act or fault of the Contractor or a subcontractor, sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

- (a) Issuance of an order by a court or by another public authority having jurisdiction and authority which requires all Work to be stopped; or
- (b) An act of government, such as a declaration of national emergency, which requires all Work to be stopped.

18.2 In such event, the Contractor shall be entitled to recover from the Owner as though the Owner had terminated the Contractor's performance under this Contract pursuant to Paragraph 20.3.

ARTICLE 19 OWNER'S RIGHT TO SUSPEND CONTRACTOR'S PERFORMANCE

19.1 The Owner may, at any time and without cause, order the Contractor, in writing, to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine. If the Owner directs any such suspension, the Contractor must immediately comply with same.

19.2 In the event the Owner directs a suspension of performance under this Article, and such suspension is through no fault of the Contractor, the Fixed Price Contract Amount and Contract Time shall be adjusted for increases in the cost and time caused by such suspension, delay, or interruption to cover the Contractor's reasonable costs, actually incurred and paid, of:

- (a) Demobilization and remobilization, including such costs paid to subcontractors;
- (b) Preserving and protecting Work in place;
- (c) Storage of materials or equipment purchased for the Project, including insurance thereon; and
- (d) Performing in a later, or during a longer, time frame than that provided by this Contract.

19.3 The adjustment of the Fixed Price Contract Amount shall include an amount for a reasonable profit. The adjustment of the Fixed Price Contract Amount shall not include any amount not otherwise allowed under this Contract, including any limitations applicable to Claims. The Contractor shall provide supporting documentation related to any increase upon request of the Owner. No adjustment shall be made to the extent:

- (a) That performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
- (b) That an equitable adjustment is made or denied under another provision of the Contract.

ARTICLE 20 **TERMINATION BY THE OWNER**

The Owner may terminate this Contract in accordance with the following terms and conditions:

20.1 If the Contractor does not perform the Work, or any part thereof, in accordance with the Contract Documents, or in a timely manner; does not supply adequate labor, supervisory personnel, or proper equipment or materials; fails to pay subcontractors; fails to timely discharge its obligations for labor, equipment, and materials; proceeds to disobey applicable law; or otherwise breaches this Contract, then the Owner, in addition to any other rights it may have against the Contractor, may terminate the Contract and assume control of the Project site and of all materials and equipment at the site and may complete the Work. In such case, the Contractor shall not be paid further until the Work is complete. Upon such Termination, the Owner may, subject to any superior rights of the Surety, take possession of the site and of all materials, equipment, tools and construction equipment and machinery thereon owned by the Contractor; accept assignment of those subcontracts conditionally assigned under Paragraph 15.2; and finish the Work by whatever reasonable method the Owner may deem expedient.

20.2 When the Owner terminates the Contract for cause as provided in Paragraph 20.1, the Contractor shall not be entitled to receive further payment until the Work is finished and shall only be entitled to payment for Work satisfactorily performed by the Contractor in accordance with the Contract Documents. If the costs of finishing the Work, including compensation for the Design Professional's services and expenses made necessary thereby, exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Contract. The Contractor shall also terminate outstanding orders and subcontracts. The Contractor shall settle

the liabilities and claims arising out of the termination of subcontracts and orders. In the event the employment of the Contractor is terminated by the Owner for cause pursuant to Paragraph 20.1 and it is subsequently determined by a court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination under Paragraph 20.3 and the provisions of Paragraph 20.3 shall apply.

20.3 The Owner may, at any time and for any reason, terminate this Contract. The Owner shall give no less than seven (7) days' written notice of such Termination to the Contractor specifying when termination becomes effective. The Contractor shall incur no further obligations in connection with the Work and the Contractor shall stop Work when such Termination becomes effective. The Contractor shall also terminate outstanding orders and subcontracts. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The Owner may direct the Contractor to assign the Contractor's right, title and interest under termination orders or subcontracts to the Owner or its designee. The Contractor shall transfer title and deliver to the Owner such completed or partially completed Work and materials, equipment, parts, fixtures, information, and Contract rights as the Contractor has. When terminated pursuant to this section, the following shall apply:

- (a) The Contractor shall submit a Termination Claim to the Owner and the Design Professional specifying the amounts claimed due because of the Termination, together with costs, pricing or other supporting data required by the Owner or the Design Professional. Failure by the Contractor to file a Termination Claim within ninety (90) days from the effective date of termination shall be deemed a complete waiver by the Contractor of any right to any payment;
- (b) Before or after receipt of the Termination Claim, the Owner and the Contractor may agree to the compensation, if any, due to the Contractor hereunder; and
- (c) If the Contractor has filed the Termination Claim but the Contractor and the Owner do not agree on an amount due to the Contractor, the Owner shall pay the Contractor the following amounts:
 - i. Unpaid Contract prices for labor, materials, equipment and other services provided or perfected prior to termination and acceptable to or accepted by the Owner;
 - ii. Reasonable costs incurred in preparing to perform the terminated portion of the Work, and in terminating the Contractor's performance, plus a fair and reasonable allowance for direct job-site overhead and profit related to such preparation (such profit shall not include anticipated profit or consequential damages); provided, however, that if it appears that the Contractor would have not profited or would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated loss, if any; and
 - iii. Reasonable costs of settling and paying claims arising out of the Termination of subcontracts or orders pursuant to this Paragraph 20.3.

20.4 Costs described in subparagraphs 20.3.(c)(ii) or 20.3.(c)(iii) above shall not include amounts paid in accordance with other provisions hereof. In no event shall the total sum to be paid the Contractor under subparagraph 20.3.(c) exceed the total Fixed Price Contract Amount, as properly adjusted,

reduced by the amount of payments previously or otherwise made and by any other deductions permitted under this Contract and shall in no event include duplication of payment.

ARTICLE 21 CONTRACTOR'S LIABILITY INSURANCE

21.1 All insurance carriers providing coverage under this Agreement, shall be rated an "A" or above by Best's Insurance Rating Service. Evidence of such insurance coverage or self-insurance shall be in the form of a certificate of insurance or statement of financial responsibility. The Contractor shall immediately notify the Owner of notice of knowledge of cancellation, refusal to renew, or change in any material way the nature or extent of the coverage provided by such policies. The Contractor will provide notification by written notice, by certified or registered mail, return receipt requested.

[21.2 is the minimum required limits. As the project estimates or cost increases, consider increasing CGL limits up to 2x the minimum limits. Refer to Risk Table in Section 21.8 for insurance requirement].

21.2 Contractor shall maintain such Commercial General Liability insurance with minimum limits of **\$1,000,000/\$2,000,000** to protect its interest and that of the Owner. Unless Contractor's Commercial General Liability insurance covers its Sub-Contractors, each Sub-Contractor shall maintain such Commercial General Liability Insurance with minimum limits of \$1,000,000. The State of Idaho, Division of Public Works, (name of agency) and the Idaho State Building Authority [when applicable] will be named an Additional Insured on any general liability and property policies carried and required by this Agreement. The insurance afforded by the Contractor and Sub-Contractors shall be primary insurance. The State of Idaho's retained risk program coverage is only applicable to the acts or omissions of the State's officials, agents, or employees and shall not cover the acts or omissions of the Contractor or its Sub-Contractors.

21.3 Contractor shall carry Worker's Compensation Insurance to cover obligations imposed by federal and state statutes covering all employees and employers' liability insurance with a minimum limit of 1,000,000.

21.4 Business Auto and Umbrella Liability Insurance: Contractor shall maintain business, auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident;

Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos);

Business auto coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01;

If hazardous waste will be hauled, Contractor shall obtain pollution liability coverage equivalent to that provided under the ISO pollution liability-broadened coverage for covered autos endorsement (CA 99 48) and the Motor Carrier Act endorsement (MCS 90) shall be attached.

21.5 If any of the insurance required under this Agreement is arranged on "claims made" basis, "tail" coverage will be required at the completion of this Agreement for duration of five (5) years thereafter. The Contractor shall be responsible for furnishing certification of "tail" coverage or continuous "claims made" liability coverage for five (5) years following the completion of this Agreement. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage provided its retroactive date is on or before the effective date of this Agreement.

21.6 The Contractor shall indemnify, defend and save harmless the State of Idaho, the Division of Public Works, (name of agency), their officers, agents and employees, and the Idaho State Building Authority [when applicable], from and against any liability, claims, damages, losses, expenses, actions and suits whatsoever, including injury or death of others or any employees of the Contractor or the Contractor's Sub-Contractor caused by or arising out of acts or omissions, or negligent performance by the Contractor of any term of this contract.

21.7 All express representations, indemnifications or limitations of liability made in or given to this Agreement will survive the completion of all services of Contractor under this Agreement or the termination of this Agreement for any reason.

21.8

Risk Table

Estimated Project Construction Cost	General Contractor / CM @ Risk General Liability Requirement
Less than \$10,000,000	\$1,000,000 Per Occurrence \$2,000,000 General Aggregate \$2,000,000 Products/Completed Operations Aggregate
\$10,000,000 to \$29,999,999	\$5,000,000 Per Occurrence \$5,000,000 General Aggregate \$5,000,000 Products/Completed Operations Aggregate
\$30,000,000 to \$49,999,999	\$10,000,000 Per Occurrence \$10,000,000 General Aggregate \$10,000,000 Products/Completed Operations Aggregate
\$50,000,000 to \$100,000,000	\$25,000,000 Per Occurrence \$25,000,000 General Aggregate \$25,000,000 Products/Completed Operations Aggregate
Over \$100,000,000	Limits and type of Insurance program to be determined. Contact Risk Management

Note: If the total project value exceeds \$10,000,000, the above appropriate limits should replace the standard \$1,000,000/\$2,000,000 requirements, as applicable.

Specific Insurance Minimum Requirements for Personal Injury, Fire Damage and Medical Payments:
Contractor shall provide coverage with limits for Personal Injury, Fire Damage and Medical Payments not less than those stated below.

Minimum Limits (Any Project under \$10,000,000)	Personal /Advertising Injury - \$1,000,000 Fire Damage (Any one fire) \$50,000 Medical Payments (Any one person) \$5,000
Project Cost of \$10,000,000 to \$29,999,999	Personal /Advertising Injury - \$5,000,000 Fire Damage (Any one fire) \$50,000 Medical Payments (Any one person) \$5,000

Project Cost of \$30,000,000 to \$49,999,999	Personal /Advertising Injury - \$10,000,000 Fire Damage (Any one fire) \$50,000 Medical Payments (Any one person) \$5,000
Project cost 50,000,000-\$100,000,000	Personal /Advertising Injury - \$25,000,000 Fire Damage (Any one fire) \$50,000 Medical Payments (Any one person) \$5,000

ARTICLE 22 BUILDER'S RISK INSURANCE

22.1 Unless otherwise provided in this Agreement, the General Contractor shall purchase or maintain property insurance written on a builder's risk "all-risk" policy (the "Builder's Risk Policy") in excess of **WRITE OUT AMOUNT [\$000.000 Total Contract Sum]** to cover the Owner's property, the Project, and General Contractor's equipment, materials, and supplies.

(a) The Builder's Risk Policy shall:

- i. Include perils of fire with extended coverage and mischief, collapse, earthquake, flood, windstorm, temporary buildings and debris removal, demolition, and flood damage, if commercially available for similar operation in the region of the United States where the Project is located;
- ii. Be of an amount not less than the initial Contract Amount, plus value of subsequent Contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site, on a replacement cost basis without optional deductibles;
- iii. Cover resultant damage from errors in design, plans, specifications, faulty workmanship, materials, and construction;
- iv. Include reasonable compensation for Design Professional, Project Manager, Owner and its contractors' services and expenses required as a result of an insured loss, excluding any Liquidated Damages, extra expense, and expediting expense;
- v. Include the State of Idaho, Contractor and Sub-Contractors as Named Insureds under the policy.
- vi. Contain an express, full and complete, waiver of any right of subrogation by the insurer in favor of the Owner and State of Idaho for loss or damage occurring during the Work to the extent covered by the Builder's Risk Policy.

(b) The General Contractor shall purchase the Builder's Risk Policy from a company or companies lawfully authorized to do business and issues contracts of insurance in the State of Idaho.

(c) The General Contractor shall be responsible for the deductible, whether or not to the extent the loss is caused by the negligence or intentional misconduct of the General Contractor, any of its Subcontractors or sub-subcontractors or material suppliers or any other person for whom the General Contractor is responsible.

(d) The General Contractor shall submit to the Owner, or the Project Manager if designated by the Owner, for its approval, all items deemed by the Builder's Risk Policy carrier to be uninsurable.

- (e) The General Contractor shall not commence Work under the Agreement until it has obtained all required insurance and until evidence of the required insurance has been reviewed and accepted by the Owner. Owner review of the insurance shall not relieve nor decrease the liability of the General Contractor.
- (f) The Builder's Risk Policy shall be maintained in force, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final acceptance by the Owner and final payment to the General Contractor has been made.

22.2 The Contractor authorizes the Owner to negotiate and agree on the value and extent of, and to collect the proceeds payable with respect to, any loss under a policy of insurance where the Owner is the Insured or Additional Insured pursuant to any of the provisions of this Article. The Owner shall have full right and authority to compromise any claim, or to enforce any claim by legal action or otherwise, or to release and discharge any insurer, by and on behalf of the Owner and Contractor. The Owner shall provide written notice to Contractor of:

- (a) its having reached any such settlement or adjustment with an insurer; and
- (b) the receipt of any funds pursuant to this Article. Any objection by the Contractor to a settlement or adjustment made under this Article must be made in writing to the Owner within five (5) business days of the notice from the Owner. The Owner and the General Contractor agree to attempt to resolve the dispute by mutual agreement.

22.3 The General Contractor shall deposit proceeds received under the Builder's Risk Policy in a manner in which such proceeds can be separately accounted for. The General Contractor shall distribute the proceeds in accordance with an agreement as the parties may reach. If after such loss no other special agreement is made and unless the Owner terminates the Contract pursuant to Article 20, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 16.

ARTICLE 23 SOVEREIGN IMMUNITY

23.1 In no event shall this Agreement or any act by the STATE OF IDAHO, be a waiver of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. If a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the State of Idaho. This Section applies to a claim brought against the STATE OF IDAHO only to the extent Congress has appropriately abrogated the state's sovereign immunity, and is not consent by the STATE OF IDAHO, to be sued in federal court, or a waiver of any form of immunity, including, but not limited to, sovereign immunity, and immunity based on the Eleventh Amendment to the Constitution of the United States.

ARTICLE 24 PERFORMANCE AND PAYMENT BONDS

24.1 The Contractor shall furnish separate performance and payment bonds to the Owner. Each bond shall set forth a penal sum in an amount not less than the Fixed Price Contract Amount and shall include a power of attorney attached to each bond. The signature of both the Contractor's principal and the Surety are required. If the Surety is incorporated, both bonds must have the corporate seal. Each bond furnished by the Contractor shall incorporate by reference the terms of this Contract as fully as though they were set forth verbatim in such bonds. In the event the Fixed Price Contract Amount is adjusted by Change Order executed by the Contractor, the penal sum of both the performance bond and the payment bond shall be deemed increased by like amount. The performance and payment bonds furnished by the Contractor shall be AIA Document A312, or a standard Surety form certified approved to be the same as the AIA Document A312, and shall be executed by a Surety, or Sureties, reasonably acceptable to the Owner and authorized to do business in the State of Idaho.

24.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made.

24.3 It is the Contractor's obligation to notify the Surety in the event of changes in the Contract Documents, which in the absence of notification might serve to discharge the Surety's obligations, duties or liability under bonds or the Contract.

ARTICLE 25 PROJECT RECORDS

25.1 All documents relating in any manner whatsoever to the Project, or any designated portion thereof, which are in the possession of the Contractor or any Subcontractor of the Contractor, shall be made available to the Owner or the Design Professional for inspection and copying upon written request. Furthermore, said documents shall be made available, upon request by the Owner, to any state, federal or other regulatory authority and any such authority may review, inspect, and copy such records. Said records include all drawings, plans, specifications, submittals, correspondence, minutes, memoranda, tape recordings, videos or other writings or things which document the Project, its design, and its construction. Said records expressly include those documents reflecting the cost of construction to the Contractor. The Contractor shall maintain and protect these documents for no less than four (4) years after final completion or termination of the Contract or for any longer period of time as may be required by law or good construction practice.

ARTICLE 26 MISCELLANEOUS PROVISIONS

26.1 The law is hereby agreed to be the law of the State of Idaho. The parties further agree that venue for any proceeding related to this Contract shall be in Boise, Ada County, Idaho, unless otherwise mutually agreed by the parties.

26.2 Pursuant to Section 54-1904A, Idaho Code, within thirty (30) days after award of this Contract, the Contractor shall file with the Idaho State Tax Commission, with a copy to the Owner, a signed statement showing the date of Contract award, the names and addresses of the home offices of contracting parties, including all Subcontractors, the state of incorporation, the Project Number and a general description of the type and location of the Work, the amount of the prime contracts and all

subcontracts and all other relevant information which may be required on forms which may be prescribed by the Idaho State Tax Commission.

26.3 The Contractor, in consideration of securing the business of erecting or constructing Public Works in the State of Idaho, recognizing that the business in which it is engaged is of a transitory character, and that in the pursuit thereof, its property used therein may be without the state when taxes, excises or license fees to which it is liable become payable, agrees:

- (a) To pay promptly when due all taxes (other than on real property), excises and license fees due to the State of Idaho, its sub-divisions, and municipal and quasi-municipal corporations therein, accrued or accruing during the term of this Contract, whether or not the same shall be payable at the end of such term;
- (b) That if the said taxes, excises, and license fees are not payable at the end of said term, but liability for the payment thereof exists even though the same constitute liens upon its property, to secure the same to the satisfaction of the respective officers charged with the collection thereof; and
- (c) That, in the event of its default in the payment or securing of such taxes, excises and license fees, to consent that the department, officer, board or taxing unit entering this Contract may withhold from any payment due it hereunder the estimated amount of such accrued and accruing taxes, excises and license fees for the benefit of all taxing units to which said Contractor is liable.

26.4 Before entering a Contract, the Contractor shall be authorized to do business in the State of Idaho and shall submit a properly executed Contractor's Affidavit Concerning Taxes (Exhibit D).

26.5 Pursuant to Section 44-1002, Idaho Code, it is provided that each Contractor "must employ ninety-five percent (95%) bona fide Idaho residents as employees on any job under any such contract except where under such contracts fifty (50) or less persons are employed the contractor may employ ten percent (10%) nonresidents, provided, however, in all cases employers must give preference to the employment of bona fide residents in the performance of said Work, and no contract shall be let to any person, firm, association, or corporation refusing to execute an agreement with the above mentioned provisions in it; provided, that, in contracts involving the expenditure of federal aid funds this act shall not be enforced in such a manner as to conflict with or be contrary to the federal statutes prescribing a labor preference to honorably discharged soldiers, sailors, and marines, prohibiting as unlawful any other preference or discrimination among citizens of the United States." (Ref. Section 44-1001, Idaho Code)

26.6 The Contractor shall maintain, in compliance with Title 72, Chapter 17, Idaho Code, a drug-free workplace program throughout the duration of this Contract and shall only subcontract work to subcontractors who have programs that comply with Title 72, Chapter 17, Idaho Code.

26.7 As between the Owner and Contractor as to acts or failures to act, any applicable statute of limitations shall commence to run, and any legal cause of action shall be deemed to have accrued in any and all events in accordance with Idaho law.

26.8 The Contractor and its subcontractors and sub-subcontractors shall comply with all applicable Idaho statutes with specific reference to Idaho Public Works Contractors' licensing laws in the State of Idaho, Title 54, Chapter 19, Idaho Code, as amended.

26.9 The Contractor shall not knowingly hire or engage any illegal aliens or persons not authorized to work in the United States and take steps to verify that it does not hire or engage any illegal aliens or persons not authorized to work in the United States. Any misrepresentation in this regard or any employment of persons not authorized to work in the United States constitutes a material breach and shall be cause for the imposition of monetary penalties not to exceed five percent (5%) of the Fixed Price Contract Amount per violation and/or Termination of this Contract. The Contractor also acknowledges that, if it is a natural person, it is subject to Title 67, Chapter 79, Idaho Code regarding verification of lawful presence in the United States.

ARTICLE 27 **EQUAL OPPORTUNITY**

The Contractor shall maintain policies of employment as follows:

27.1 The Contractor and the Contractor's subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, color, sex, age or national origin. Such action shall include the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of non-discrimination.

27.2 The Contractor and the Contractor's subcontractors shall, in all solicitation or advertisements for employees placed by them or on their behalf; state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, age or national origin.

ARTICLE 28 **SUCCESSORS AND ASSIGNS**

28.1 Each party binds itself, its successors, assigns, executors, administrators or other representatives to the other party hereto and to successors, assigns, executors, administrators or other representatives of such other party in connection with all terms and conditions of this Contract. The Contractor shall not assign this Contract or any part of it or right or obligation pursuant to it without prior written consent of the Owner. If Contractor attempts to make assignment without consent of Owner, Contractor shall remain legally responsible for all obligations under this Contract.

ARTICLE 29 **SEVERABILITY**

29.1 In the event any provision or section of this Contract conflicts with applicable law or is otherwise held to be unenforceable, the remaining provisions shall nevertheless be enforceable and shall be carried into effect.

ARTICLE 30 **MEDIATION**

30.1 Contractor Objections for additional cost or time are subject to Article 14, shall be reviewed as provided in accordance with that Article and, as a condition precedent to litigation, are subject to dispute resolution attempts and mediation in accordance with this Article. All other issues and disputes arising from this contract are also subject to dispute resolution attempts & mediation in accordance with this Article, as a condition precedent to litigation.

30.2 The Parties agree that resolution of any dispute or disagreement without formal legal proceedings is to their mutual benefit and to the benefit of the Project.

30.3 The parties agree to make every reasonable attempt to resolve any issues or disputes informally. The parties further agree that prior to the institution by either of legal or equitable proceedings of any kind, and as a condition precedent thereto, any dispute between the Contractor and the Owner related to the Contract, including a dispute over the Owner's decision regarding a Claim, shall be subject to mediation as follows:

- (a) If the issue to be mediated involves only a dispute regarding the Contract Time, no request to mediate shall be made unless liquidated damages have been assessed by the Owner. If the issue to be mediated involves a Claim or other financial dispute, no request to mediate shall be made unless the amount is \$50,000 or more or until there are cumulative Claims or disputes amounting to \$50,000 or more; provided, however, that a mediation request can be made as to any Claim or financial matter at any time after Substantial Completion;
- (b) The party seeking mediation shall notify the other party in writing of its mediation request. In such written request, the requesting party must clearly describe the issues it believes are subject to mediation;
- (c) Within fifteen (15) days of receipt of the mediation request, the non-requesting party shall respond in writing to the request;
- (d) Unless the Owner and the Contractor agree to other rules for mediation, mediation shall be in accordance with the Construction Industry Rules of Arbitration and Mediation Procedures in effect at the time of the mediation;
- (e) The parties shall share the mediator's fee and any filing fees equally; provided, however, that if a party makes a written request to the mediator without satisfying the requirements of this section and by doing so incurs any costs or fees, that party shall be solely responsible for the costs or fees;
- (f) Unless otherwise mutually agreed to by the parties, the mediation shall be in Boise, Ada County, Idaho;
- (g) The parties shall cooperate in arranging the other details of mediation, such as selection of the mediator, mediation dates and times;
- (h) The parties agree that all parties necessary to resolve the matter shall be parties to the same mediation proceeding; provided, however, that no Subcontractor or sub-subcontractor shall attend the mediation absent advance notice and consent from the Owner;
- (i) Agreements reached in mediation shall be enforceable as settlement agreements in any court having proper jurisdiction; and

(j) Unless otherwise agreed in writing, the Contractor shall continue the work and maintain the approved schedules during any mediation proceedings. If the Contractor continues to perform, the Owner shall continue to make payments in accordance with the Contract Documents.

30.4 If mediation fails to resolve the dispute, either party may file an action in the courts of Idaho in accordance with the venue provision contained in this Contract.

ARTICLE 31
WAIVER OF CONSEQUENTIAL DAMAGES

31.1 The Contractor and Owner waive claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes:

(a) Damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business, and reputation and for loss of management or employee productivity or of the services of such persons; and

(b) Damages incurred by the Contractor for principal office expenses, including the compensation of personnel stationed there; for losses of income, financing, business, and reputation; loss of management or employee productivity or of the services of such persons; and for loss of profit except profit arising directly from the Work.

31.2 This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Articles 18 and 20. Nothing contained in this paragraph shall be deemed to preclude an award of the assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

IN WITNESS WHEREOF, the parties have executed this Contract on the dates set forth below.

OWNER:

State of Idaho
Division of Public Works

Authorized Signature

Date

Kelly A. Berard
Print Signature

Administrator
Title

CONTRACTOR:

Contractor's Name- Typed

Authorized Signature

Date

Print Signature

Title

EXHIBIT A

PROJECT IDENTIFICATION, ADDENDA, CONTRACT AMOUNT, CONTRACT TIME, ACCEPTED ALTERNATIVES, LIQUIDATED DAMAGES, AND SPECIAL CONDITIONS (IF ANY)

****INSERT PROJECT NUMBER, PROJECT TITLE, LOCATION AND BRIEF DESCRIPTION
BELOW****

OWNER'S PROJECT IDENTIFICATION INFORMATION:

DPW Project No.: _____

Project Title : _____

Project Location: _____

General Project Description:

****INSERT PROJECT ADDENDA AND DATES BELOW****

ADDENDA: Addenda applicable to the Contract and made a part of are as follows:

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

FIXED PRICE CONTRACT AMOUNT AND ACCEPTED ALTERNATES:

Base Bid Amount: _____ \$0.00

Alternate No. _____ (_____) add \$0.00

Alternate No. _____ (_____) add \$0.00

Alternate No. _____ (_____) add \$0.00

Total Fixed Price Contract Amount

(_____) Dollars \$0.00

Contractor's Requests for Payment are to be submitted for Work accomplished through the _____ day of each month as described in Paragraph 7.3.

****INSERT CONTRACT TIME AND LIQUIDATED DAMAGES IN PARAGRAPHS B AND C
BELOW****

TIME FOR PERFORMANCE AND LIQUIDATED DAMAGES:

A. The Contractor shall commence construction of its scope of the Work in accordance with the Notice to Proceed issued by the Owner, and which will become Exhibit F to this Contract.

B. The Contractor shall accomplish Substantial Completion as defined in Article 6 of the Contract within _____ (_____) consecutive calendar days from the date authorized to proceed in the Notice to Proceed.

C. The amount of liquidated damages per day for each and every day of unexcused delay as outlined in Article 6 on the Contract is: _____ Dollars (\$_____)

****INSERT NUMBER OF DOCUMENTS THAT WILL BE PROVIDED IN THE BLANK BELOW****

DRAWINGS AND SPECIFICATIONS:

The Owner shall furnish the Contractor ____ sets of Drawings and Project Manuals.

****INCLUDE THE FOLLOWING SPECIAL CONDITIONS WHEN APPLICABLE TO THE PROJECT****

SPECIAL CONDITIONS:

****FOR PROJECTS AT THE COLLEGE OF SOUTHERN IDAHO, TWIN FALLS; NORTH IDAHO COLLEGE, COEUR D'ALENE; COLLEGE OF EASTERN IDAHO, IDAHO FALLS AND COLLEGE OF WESTERN IDAHO, NAMPA, IDAHO ADD THE FOLLOWING****

A. In Article 22, all references to "Owner" shall mean [College of Southern Idaho] [North Idaho College]. [College of Eastern Idaho]. [College of Western Idaho].

****INCLUDE THE FOLLOWING PARAGRAPHS WHEN THE IDAHO STATE BUILDING AUTHORITY OWNS OR FINANCES THE FACILITY. REVISE TO B, C & D IF PARAGRAPH 'A' ABOVE IS RETAINED****

B. The Owner (State of Idaho) leases the real property and facilities to be improved by the Project from the Idaho State Building Authority, an independent public authority. The Contractor agrees to provide insurance certificates to the Idaho State Building Authority as an additional insured, to indemnify and defend the Idaho State Building Authority against any claims and to warrant and guaranty materials, equipment and workmanship, all as contained in the Contract Conditions.

C. In Article 21, Paragraph 21.2, add the Idaho State Building Authority to be named as an additional insured.

D. In Article 21, Paragraph 21.2 also provide a separate certificate issued to the Idaho State Building Authority showing the Idaho State Building Authority as an additional insured.

EXHIBIT B

ADDRESSES AND AUTHORIZED REPRESENTATIVES (INCLUDING LIMITATIONS)

The names, addresses and authorized representatives of the Owner, the Contractor and the Design Professional are:

OWNER: State of Idaho
Division of Public Works
502 N. 4th Street
P.O. Box 83720
Boise, ID 83720-0072
Kelly A. Berard, Administrator

Project Manager: **Name:** _____
Telephone: (208) _____
E-mail: _____
May sign for Owner: Yes [] No []

Field Representative: **Name:** _____
Telephone: (208) _____
E-mail: _____
May sign for Owner: Yes [] No []

CONTRACTOR: _____ (company name)
_____ (address or PO address)
_____ (city, state, zip)
_____ (telephone)
_____ (email)
Public Works Contractors License No. _____

Officer: _____ (name and title)
_____ (telephone)
_____ (E-mail)

Contractor's
Project Manager: _____ (name)
_____ (telephone)
_____ (E-mail)

May sign for Contractor: Yes [] No []

Change Orders: up to: \$ _____ .00

Construction Change Authorizations: up to: \$ _____ .00

Contractor's Request for Payment

Contractor's
Superintendent: _____ (name)
_____ (telephone)
_____ (E-mail)

May sign for Contractor: Yes [] No []

Construction Change Authorizations: up to \$ _____ .00

****COMPLETE ALL OF THE BLANKS AND BOXES BELOW. REMOVE THE UNDERLINES AND ITALICIZED INFORMATION****

**DESIGN
PROFESSIONAL:**

(firm name)
(address or PO address)
(city, state and zip)
(telephone)

**Professional's
Project Manager:**

(name)
(telephone)
(E-mail)

**Professional's
Field Representative:**

(name)
(telephone)
(E-mail)

May sign for Design Professional:

Field Reports	Yes [<input type="checkbox"/>]	No [<input type="checkbox"/>]
Change Order Proposal Requests	Yes [<input type="checkbox"/>]	No [<input type="checkbox"/>]
Construction Change Authorization:	Yes [<input type="checkbox"/>]	No [<input type="checkbox"/>]
Construction Change Order	Yes [<input type="checkbox"/>]	No [<input type="checkbox"/>]
Design Professional's Supplemental Instructions	Yes [<input type="checkbox"/>]	No [<input type="checkbox"/>]
Interpretations of the Contract Documents	Yes [<input type="checkbox"/>]	No [<input type="checkbox"/>]
Contractor's Request for Payment	Yes [<input type="checkbox"/>]	No [<input type="checkbox"/>]
Acceptance of Substantial Completion	Yes [<input type="checkbox"/>]	No [<input type="checkbox"/>]
Acceptance of final completion	Yes [<input type="checkbox"/>]	No [<input type="checkbox"/>]

EXHIBIT C

LIST OF DRAWINGS AND SPECIFICATIONS

****LIST ALL DRAWINGS AND SPECIFICATIONS. COORDINATE WITH DRAWINGS AND PROJECT MANUAL TABLE OF CONTENTS****

LIST OF DRAWINGS:

0.0 Cover Sheet

Architectural

A.1 Site Plan

A.2 Foundation Plan

Structural

Mechanical

Electrical

LIST OF SPECIFICATIONS:

DIVISION 1 - GENERAL REQUIREMENTS

Section 01010 Scope of the Work

DIVISION 2 - SITE WORK

Section 02020 Site Clearing

EXHIBIT D

CONTRACTOR'S AFFIDAVIT CONCERNING TAXES

STATE OF _____) :ss
COUNTY OF _____)

Pursuant to the Title 63, Chapter 15, Idaho Code I, the undersigned, being duly sworn, depose and certify that all taxes, excises and license fees due to the State or its taxing units, for which I or my property is liable then due or delinquent, has been paid, or arrangements have been made, before entering into a Contract for construction of any public works in the State of Idaho.

Name of Contractor

Address or PO address

City, State, zip code

Signature

Title

Subscribed and sworn to before me this _____ day of _____, _____.

(SEAL)

NOTARY PUBLIC

Residing at: _____

Commission expires: _____

EXHIBIT E

NAMED SUBCONTRACTORS

Pursuant to Section 67-2310, Idaho Code, commonly known as the naming law, the names and addresses of the entities who will perform the plumbing, heating and air conditioning and electrical work were named in the bid and are as follows:

****INCLUDE SUBCONTRACTORS ONLY AS APPLICABLE**

Plumbing (PWCL Category 15400)

(Name) _____
(Address) _____

Idaho Public Works Contractors License No. _____

Idaho Plumbing Contractors License No. _____

Heating Ventilating & Air Conditioning (PWCL Category 15700-HVAC)

(Name) _____
(Address) _____

Idaho Public Works Contractors License No. _____

Idaho HVAC Contractors License No. _____

Electrical (PWCL Category 16000)

(Name) _____
(Address) _____

Idaho Public Works Contractors License No. _____

Idaho Electrical Contractors License No. _____

EXHIBIT F

NOTICE TO PROCEED

TO CONTRACTOR: _____ DPW NUMBER: _____

CONTRACT DATE: _____ ARCHITECT: _____

DATE OF ISSUANCE: _____ OWNER: State of Idaho

You are hereby notified to commence work on the above referenced contract on/or before _____, _____ and are to substantially complete the work within _____ consecutive calendar days thereafter; therefore your contract completion date is _____.

The contract provides for the sum of \$ _____ as liquidated damages for each consecutive calendar day after the above established substantial completion date that the Work remains incomplete. Completion date will be established by "Certificate of Substantial Completion."

You are reminded that any changes to the original contract document regarding either cost or completion date must be affected by a change order approved by this department.

Your payment estimates must be submitted on Division of Public Works forms included herein. We will be most happy to assist you in preparing the payment estimate forms.

_____ has been appointed Field Representative for this project. Please contact him at (208) _____ prior to beginning Work. A pre-construction meeting will be held on _____, _____, at _____, _____.m., at _____ .(location)

Sincerely,

Kelly A. Berard
Administrator

DR. **

DISTRIBUTION: Tax Commission

Division of Occupational and Professional Licenses

Risk Management (w/ Builder's Risk Application, if applicable)

(Project Manager)

Fiscal Office

TAX ID xx-xxxxxxx

EXHIBIT G
Idaho State Tax Commission
REQUEST FOR TAX RELEASE

Date: _____

PART I -- AWARDING AGENCY INFORMATION:

Name of agency	Mailing address	City, state, and ZIP Code
Contact name	Phone number	Email address

PART II -- CONTRACTOR INFORMATION:

Name of contractor	Mailing address	City, state, and ZIP Code	
Federal EIN	Contact name	Phone number	Email address

PART III -- CONSTRUCTION/CONTRACT MANAGER INFORMATION (if applicable):

Name of business	Mailing address	City, state, and ZIP Code	
Federal EIN	Contact name	Phone number	Email address

Send a copy of the approved Tax Release to: Awarding Agency Contractor Construction Manager

NOTE: We will email all copies unless otherwise requested

PART IV – PROJECT INFORMATION:

Name of project	Location of project
-----------------	---------------------

Description of project

Project number assigned by awarding agency	Project start date	Project completion date	Final/closing contract amount (includes all change orders) \$
--	--------------------	-------------------------	--

Did any government entities supply materials which were installed by this contractor or its subs?
Yes _____ No _____

If YES, list these materials and their dollar values. (Attach additional information if needed):

List Materials

List Dollar Values of Materials

	\$
	\$
	\$

Send to: Contract Desk/Sales Tax Audit
 Idaho State Tax Commission
 PO Box 36
 Boise ID 83722-0410
 Phone: (208) 334-7618 • Fax: (208) 332-6619 • Email: contractdesk@tax.idaho.gov

NOTE: Please allow 30 days to process a Tax Release Request. You must send a complete, signed Form WH-5 Public Works Contract Report to the Idaho State Tax Commission to complete this request.

EXHIBIT H

RELEASE OF CLAIMS

(TO BE COMPLETED FOR FINAL PAYMENT)

I, _____, do hereby release the State of Idaho from any and all claims of any character whatsoever arising under and by virtue of DPW contract number _____, dated _____, as amended, except as herein stated.

Dated: _____

Contractor: _____

EXHIBIT J

CONDITIONS PRECEDENT TO FINAL PAYMENT

Date: _____
DPW Project No. _____
Project Title: _____
Location: _____

Send to:
State of Idaho
Division of Public Works
502 N. Fourth Street
Boise, Idaho 83702

Copy to:
Design Professional

Contractor's Responsibilities:

Per Paragraph 7:14 of the Fixed Price Contract: As a condition precedent to final payment, the Contractor must furnish the owner, in the form and manner required by Owner, to be submitted to the Design Professional for approval, the following:

- Contractor's Final Request for Payment Form has been uploaded to OMS;
- Release of Claims form has been uploaded to OMS (DPW's form, Exhibit H);
- Contractor's Affidavit of Payment of Debts and Claims Form has been uploaded to OMS (AIA G706);
- Consent of Surety to Final Payment has been uploaded to OMS (AIA G707);
- Confirmation of all required training (DPW's Training Confirmation Exhibit K), product warranties, operating manuals, instruction manuals and other record documents, drawings and items customarily required of the Contractor has been uploaded to OMS.
- Public Works Contract Tax Release from the Idaho Tax Commission has been uploaded to OMS;
- Division of Occupational and Professional Licenses Letter of Completion/Final Inspection has been uploaded to OMS (as required); and
- Project Finalization and Start Up has been uploaded to OMS (as required, Exhibit L).

Contractor's Signature

Date

Design Professional's Approval for Payment:

- All Documents Required per Paragraph 7.14 of the Fixed Price Contract have been uploaded to OMS.
- All Warranties, Guarantees, etc. have been received, approved and have been uploaded to OMS.
- Contractor's As-Built Drawings, have been received, reviewed, approved, and uploaded to OMS in PDF format.
- Final punch list with AE's verification that all items have been completed, has been uploaded to OMS.
- Record Drawings have been completed by AE. All required copies of the Record Documents and electronic media are attached and uploaded to OMS in PDF, and DWG 2010 format. DWG files should be bound in zip folder, or "e-transmit" folder, containing all drawing files with relevant dependencies (i.e. x-refs, images, title blocks, and pen settings). *Record Drawings are a requirement for the AE's final payment; not the Contractor's.*

To the best of my knowledge, information, and belief, and on the basis of my observations and inspections, I certify the Work has been completed in accordance with the terms and conditions of the Contract Documents and that the required documentation required by Paragraph 7.14 of the fixed priced contract has been received. The entire balance, as shown on the attached Final Request for Payment, is due and payable.

Design Professional's Signature

Date

EXHIBIT K

STATE OF IDAHO
DIVISION OF PUBLIC WORKS

TRAINING CONFIRMATION SIGN-IN SHEET

DPW Project: _____

Agency: _____

Project Name: _____

Project Location: _____

Field Representative: _____

Date & Time: _____

EXHIBIT L

PROJECT FINALIZATION AND START-UP

Upon completion of the equipment and systems installation and connections, the contractor shall assemble all equipment factory representative and subcontractors together for system start-up.

These people shall assist in start-up and check out their system(s) and remain at the site until the total system operation is acceptable and understood by the agency's representative(s). The factory representative and system subcontractor shall also give instructions on operation and maintenance of their equipment to the agency's maintenance and/or operation personnel. To prove acceptance of operation and instruction by the agency's representative(s), this written statement of acceptance shall be signed below.

"I, the Contractor, associated factory representative and subcontractors, have started each system and the total system; and have proven their normal operation to the agency's representative(s) and maintenance/operation personnel and have instructed him/them in the operation and maintenance thereof."

Agency's Representative

Contractor

Signature

Signature

Date

Date

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****DO NOT INCLUDE THE FOLLOWING INFORMATION IN THE PROJECT MANUAL. THIS INFORMATION IS INTENDED FOR USE BY THE WRITER OF THE SPECIFICATIONS****

DIVISION 1 - GENERAL REQUIREMENTS

In addition to the information and data contained in the Bidding Documents and Contract Documents, the following information should be included in Division 1. The Design Professional should review each Project to determine applicability and tailor each specification to suit the particular Project. The Section breakdown and numbering is optional but should generally follow the CSI recommended format.

Summary, Alternates, Allowances

One or more sections to include a scope of Work, phases of construction, etc. Include a full and detailed description of alternates and unit prices and a listing of allowances with dollar amounts. Alternates should be kept to a minimum and must be clear, precise, and independent of other alternates. Unit prices and allowances should only be used when specific requirements are not available at time of bidding, and only with the DPW Project Manager's approval. Use only add alternates unless specifically authorized elsewhere.

Project Coordination

This section should be used for requiring surveys or special recording requirements. Installer inspections prior to actual application should be required for major units of Work and always for critical items like waterproofing, roofing, glazing, special coatings, etc. Pre-installation meetings should always include Owner, Design Professional, DPW Field Representative, contractor, subcontractor and manufacturer's representative.

DPW typically requires a pre-construction meeting and monthly construction meetings. A typical format and agenda for such meetings is available in DPW Instructions to Design Professional. Meetings are to be set-up, chaired and recorded by the A/E.

Under Project Coordination, several areas of responsibility and activity are herein defined:

1. The Division of Public Works Field Representative will determine the time, location, and date for the Preconstruction Conference. Personnel to attend will be the contractor, sub-contractor(s), material suppliers, Division of Public Works Field Representative, Agency Representative and Design Professional.
2. The Design Professional is to provide minutes of the Preconstruction Conference to all concerned parties.

This section should also include coordination with existing site operations. Most DPW projects occur on state campuses and institutions, some with very restrictive access and most with continuing operations.

Cutting and Patching

This section may be required on new Work and is usually required on renovation and repair projects.

Definitions and Standards

Provide as required to clarify technical sections.

Schedules, Reports, Payments

Use if required for more detailed explanation of requirements. Require CPM or similar type scheduling for large or complicated projects. Obtain the appropriate forms from DPW for payment requests, change orders, substantial completion, etc.

Submittals

Outline procedures for shop drawing, product data, samples, etc. DPW Field Representative should be included for receipt of approved submittals.

Quality Control Services

The State typically pays the cost of normal testing to include earthwork, paving, concrete and welding. Special tests may be specified to be performed at contractor expense. Payment for retesting of failed tests should be specified to be at cost of contractor.

Temporary Facilities

For remodeling and additions, temporary utilities may be arranged for through the Owner and utility charges can be paid for by the Owner. For new construction, require the Contractor to provide and pay for temporary and construction utility costs through substantial completion. Provide for security and access as required.

Products and Substitutions

Define and outline as required including details relating to warranties. DPW prefers no substitutions after bid date except where products are unavailable within construction schedule.

Project Finalization/Start-up

****FOR PROJECTS WITH OPERATING SYSTEMS AND EQUIPMENT, SUCH AS HVAC, CERTAIN ELECTRICAL AND CONTROL SYSTEMS, ETC., THE APPROPRIATE DIVISION / SECTION(S) OF THE PROJECT SPECIFICATIONS SHALL INCLUDE A STATEMENT SIMILAR TO THE FOLLOWING.**

PROJECT FINALIZATION AND START-UP

Upon completion of the equipment and systems installation and connections, the contractor shall assemble all equipment factory representative and subcontractors together for system start-up.

These people shall assist in start-up and check out their system and remain at the site until the total system operation is acceptable and understood by the agency's representative. The factory representative and system subcontractor shall also give instructions on operation and maintenance of their equipment to the agency's maintenance and/or operation personnel. To prove acceptance of operation and instruction by the agency's representative, the contractor shall prepare a written statement of acceptance explaining same for his signature. The statement might read as follows:

I, the Contractor, associated factory representative and sub-contractors, have started each system and the total system; and have proven their normal operation to the agency's representative and have instructed him in the operation and maintenance thereof.

Agency's Representative

Contractor

Signature

Signature

Date

Date

Project Closeout

Outline closeout procedures. Require accurate and complete "As-Built" drawings. Require accurate record keeping and a listing of products, subcontractors, supplier and/or manufacturers. Require maintenance manuals and instructions to Owner's operating and maintenance personnel. Require complete final cleaning. Normally two copies of maintenance manuals will be required. For projects with complex equipment and systems include project finalization and start-up requirements.

****FOR PROJECTS IN IDAHO STATE BUILDING AUTHORITY BUILDINGS, INCLUDE THE FOLLOWING PROVISION PERTAINING TO WARRANTIES AND GUARANTEES.**

Contractor agrees that all warranties and guarantees of materials, equipment and workmanship to the Owner shall also be for the specific benefit of the Idaho State Building Authority and, specifically agrees for itself and all of its subcontractors and suppliers that any and all provisions of any warranty or guaranty may be enforced by the Owner, the Idaho State Building Authority or any of its assignees or successors in interest.

Instructions for Uploading Files to Blueprint Specialties (WWW.DOCUPROJECT.COM)

1. Right mouse click on the Start button and select Explorer.
2. Type **ftp.bpsboise.com** in the address bar and hit enter.
3. For User name type **DPW**
4. For Password type **dpw1!**
5. You can now drag and drop or copy and paste your folders or files to the ftp site.
6. Please call us at 377-0294 when completed.

END OF GENERAL REQUIREMENTS