



State of Idaho
Department of Administration
Division of Public Works

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RFQ ADDENDUM NO. 1

Date: April 13, 2026

Owner: Division of Public Works
502 N. 4th Street
Boise, ID 83702

Project: Commissioning RFQ
DPW PROJECT NO. 22513
ISP: Combined Labs
700 S. Stratford Dr,
Meridian, ID 83642

No. of Pages: 15 (including attachments)

NOTICE TO ALL RESPONDERS

You are hereby notified of the following clarifications of and/or revisions to the Request for Qualifications for the above referenced project.

THIS ADDENDUM is hereby made a part of the project requirements and contract documents for referenced project.

BE SURE to acknowledge this Addendum No.1 in your SOQ Cover Sheet.

ITEM NO.

1. Responses to questions:

Question #1: In Section B, Team Member Qualifications, are we able to address Questions 1 and 2 within a single combined response under the stated five-page maximum, in order to avoid duplication of information?

Answer #1: The information will need to be listed as requested in the RFQ.

Question #2: Can individual team member resumes be used to showcase relevant project experience in lieu of repeating similar project descriptions within the main narrative? If so, may resumes be included in an appendix rather than within the page-limited section?

Answer #2: No. Provide the information as required in Section B.

Question #3: Is there a sample contract or agreement available that you could share for our review?

Answer #3: The agreement will be done via PSA. See attached sample/template.

Question #4: Do we need to provide a cover sheet with DPW project number, project title, firm's name/location, and primary point of contact/info? Can we provide a cover letter?

Answer #4: Yes, provide a cover letter identifying the DPW project number, project title, firm's name/location, and primary point of contact/info. Place this as the first sheet of the Statement of Qualifications doc (SOQ).

Question #5: Do we need to provide copies of our Idaho engineering licenses?

Answer #5: Providing the Idaho State license number will be sufficient.

Question #6: Page 2 under Required Services lists commissioning of laboratory equipment. I can get a lab consultant to do this work but wanted to verify you actually wanted this done. If so, what lab equipment will it include?

Answer #6: Yes, this is expected to be done as part of the commissioning. It will include all equipment noted in the construction documents shown as being provided as part of the construction contract.

Attachments: Commissioning Services Professional Services Agreement (PSA) template.

*****END OF ADDENDUM NO. 1*****

STATE OF IDAHO
DIVISION OF PUBLIC WORKS
Professional Services Agreement for Building Commissioning Services

DPW Project No. xxxxx
(project name)
(agency name)
(city), ID

THIS AGREEMENT, made as of date (#) of month 202x between the STATE OF IDAHO, as represented by the DIVISION OF PUBLIC WORKS (DPW), hereinafter referred to as the OWNER, and (commissioning agent firm name) hereinafter referred to as the COMMISSIONING AGENT.

WHEREAS, it is the intention of the OWNER to obtain the services of a Commissioning Authority for DPW Project No. xxxxx; project name, project agency, city, ID.

For the following project: (project description).

WHEREAS, the COMMISSIONING AGENT, through its principals and technical assistants, has been determined qualified to provide such services.

This Project is being administered by the OWNER for occupancy by (project agency)(acronym) hereinafter called the Agency.

The OWNER and the COMMISSIONING AGENT agree as set forth below:

ARTICLE 1
BASIC SERVICES

The COMMISSIONING AGENT'S Basic Services consist of those described in paragraphs 1.1 through 1.6 and any other services identified as a part of Basic Services, including in-house or subcontracted (SUB-CONSULTANT) engineering and consulting services.

1.1. BASIC SERVICES

1.1.1 The COMMISSIONING AGENT'S services will consist of, but are not limited to:

- a. The COMMISSIONING AGENT'S services shall provide that systems identified to be commissioned will be advanced from static completion to full dynamic working order in compliance with specified requirements. Although commissioning is primarily a part of the acceptance process, a portion of the COMMISSIONING AGENT'S services will occur during the construction phases as well as the warranty period.

1.1.2 The COMMISSIONING AGENT and/or its staff shall review the documents and site conditions to determine the extent of the work and recommend a project scope and fee proposal for review.

1.1.3 The COMMISSIONING AGENT agrees to perform the services in a timely and efficient manner so as not to create undue delay to the work of the project. The COMMISSIONING AGENT also agrees to cooperate and consult with the OWNER'S Design Consultant and Testing and Balancing

Consultants in pursuit of their work in so far as it is affected by the work of the COMMISSIONING AGENT.

1.1.4 Where the product of the COMMISSIONING AGENT'S services include reports, CDs, USBs, or other reproducible media, it is understood that the OWNER or a professional consultant under contract to the OWNER may reproduce and distribute these deliverables without modification for use in the pursuit of the project without incurring an additional obligation for additional compensation to the COMMISSIONING AGENT and the professional consultant and any fees therefore, are outside the scope of this agreement. The COMMISSIONING AGENT shall retain ownership of the original reports and reproducible media.

1.2. CONSTRUCTION DOCUMENTS PHASE

1.2.1. Based on the approved Construction Documents and any further adjustments in the scope or quality of the Project or in the construction budget authorized by the OWNER, the COMMISSIONING AGENT shall prepare, for approval by the OWNER, Construction Documents consisting of:
Commissioning Specifications.

1.3. CONSTRUCTION PHASE – ADMINISTRATION OF THE CONSTRUCTION CONTRACT

1.3.1. The COMMISSIONING AGENT'S responsibility to provide Basic Services for the Construction Phase commences with the award of the Contract and terminates twelve (12) months after final acceptance by the ARCHITECT OF RECORD and the OWNER.

1.3.2. N/A.

1.3.3. The COMMISSIONING AGENT shall be a representative of, shall advise and shall consult with the OWNER. Instructions to the Contractor shall be forwarded through the OWNER AND ARCHITECT OF RECORD. The COMMISSIONING AGENT shall have authority to act on behalf of the OWNER only to the extent provided in this Agreement and in the Contract Documents unless otherwise modified by written instrument by the OWNER and the COMMISSIONING AGENT.

1.3.4. The COMMISSIONING AGENT shall attend the preconstruction conference. The OWNER will establish the date and the CONSTRUCTION MANAGER GENERAL CONTRACTOR will chair the preconstruction conference.

1.3.5. The COMMISSIONING AGENT shall visit the site at intervals appropriate to the stage of construction or as otherwise agreed by the OWNER and the COMMISSIONING AGENT in writing to become generally familiar with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with Contract Documents. The COMMISSIONING AGENT shall not be required to make exhaustive or continuous on-site observations to check the quality or quantity of the Work. On the basis of such on-site observation as a commissioning agent, the COMMISSIONING AGENT shall keep the OWNER informed on the progress and quality of the Work and shall endeavor to guard the OWNER against defects and deficiencies in the Work.

1.3.5.1. The COMMISSIONING AGENT and the SUB-CONSULTANTS, when appropriate, shall make not less than one (1) site visit each month. Visits shall include monthly construction conferences throughout the Construction Phase. The COMMISSIONING AGENT

shall confirm that the building systems are installed and operating according to the design. All visits shall be documented and uploaded to OMS.

1.3.6. The COMMISSIONING AGENT shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, for the acts or omissions of the Contractor, Subcontractors or any other persons performing any of the Work, or for the failure of any of them to carry out the Work in accordance with the Contract Documents.

1.3.7. The COMMISSIONING AGENT shall at all times have access to the Work wherever it is in preparation or progress.

1.3.8. Interpretations and decisions of the COMMISSIONING AGENT shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in written or graphic form.

1.3.9. The COMMISSIONING AGENT shall review the Contractor's submittals, such as Shop Drawings, Product Data and Samples, but only for conformance with the design concept of the Work and with the information given in the Contract Documents. Such action shall be taken with reasonable promptness so as to cause no delay in the Work. The COMMISSIONING AGENT'S review of a specific item shall not indicate approval of an assembly of which the item is a component. When professional certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, the COMMISSIONING AGENT shall be entitled to rely upon such certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents.

1.3.10. The COMMISSIONING AGENT shall issue a statement of the Project's acceptance. If, after issuing such statement, and written acceptance by the OWNER, the COMMISSIONING AGENT'S services are further required through no fault of the COMMISSIONING AGENT, compensation shall be as in paragraph 13.2.1.

1.3.11. The COMMISSIONING AGENT, with the OWNER, shall conduct a site visit prior to expiration of the Contractor's one (1) year period for correction of Work regardless of final payment of compensation to the COMMISSIONING AGENT.

1.4. GENERAL RESPONSIBILITIES

1.4.1. The COMMISSIONING AGENT agrees to conform to and be bound by standards, criteria, and memoranda of policy furnished to him by the OWNER and further agrees to comply with applicable laws, ordinances, and codes.

1.4.2. The COMMISSIONING AGENT'S services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Work. The COMMISSIONING AGENT assumes full responsibility for all delays and associated cost proximately caused by the COMMISSIONING AGENT'S negligent acts, errors or omissions.

1.4.3. The COMMISSIONING AGENT agrees to provide qualified and/or certified technicians for the performance of the work under this agreement.

1.5. ADDITIONAL SERVICES

1.5.1. The following Services are not included in Basic Services. They shall be provided if authorized or confirmed in writing by the OWNER, as provided in this Agreement, in addition to the compensation for Basic Services.

1.5.1.1. Providing services relative to future facilities, systems and equipment which are not intended to be constructed during the Construction Phase.

1.5.1.2. Providing coordination of Work performed by separate Contractors or by the OWNER'S own forces.

1.5.1.3. Making revisions in Drawings, Specifications or other documents when such revisions are inconsistent with written approvals or instructions previously given, are required by the enactment or revision of codes, laws or other causes beyond the control of the COMMISSIONING AGENT.

1.5.1.4. Preparing Drawings, Specifications and supporting data, and providing other services in connection with Change Orders required by requests of the OWNER for additional Work or for specific changes to previously approved documents. If the COMMISSIONING AGENT requires additional compensation, the COMMISSIONING AGENT shall obtain written approval from the OWNER prior to initiation of the change request.

1.5.1.5. Providing consultation concerning replacement of any Work damaged by fire or other cause during construction, and furnishing services as may be required in connection with the replacement of such Work.

1.5.1.6. Providing services made necessary by the default of the Contractor, or by major defects or deficiencies in the Work of the Contractor, or by failure of performance of either the OWNER or Contractor under the Contract for Construction.

1.5.1.7. Providing services in connection with a public hearing, arbitration proceeding or legal proceeding except where the COMMISSIONING AGENT is party thereto or where the hearing or proceeding involves or is based upon allegations of error or omission or other negligence by the COMMISSIONING AGENT.

1.5.1.8. Providing services, other than those required in paragraphs 1.6.17, 1.6.18, and 1.6.19 above, more than eighteen (18) months after the final acceptance, unless required due to an error or omission in the provision of the COMMISSIONING AGENT'S services.

1.6. SCHEDULE

1.6.1. The COMMISSIONING AGENT shall perform Basic and Additional Services as expeditiously as is consistent with professional skill and care and the orderly progress of the Work. Following a notice to proceed, the COMMISSIONING AGENT shall submit for the OWNER'S approval, a schedule for the performance of the COMMISSIONING AGENT'S services which shall be adjusted as required as the Project proceeds. This schedule, when approved by the OWNER, shall not, except for reasonable cause, be exceeded by the COMMISSIONING AGENT. The schedule shall include the following critical occurrences:

Review of the 95% Construction Document
Start of Construction

Pre-Commissioning Meeting
Commissioning Kickoff Meeting
Commissioning Activities
Substantial Completion
One year Warranty

**ARTICLE 2
THE OWNER'S RESPONSIBILITIES**

- 2.1.** The OWNER shall work with the COMMISSIONING AGENT in the refinement and coordination of the project requirements with the Agency.
- 2.2.** The OWNER shall designate a Project Manager authorized to act in the OWNER'S behalf with respect to the Project. The Project Manager shall examine the documents submitted by the COMMISSIONING AGENT and shall render decisions in a timely manner, to avoid unreasonable delay in the progress of the COMMISSIONING AGENT'S services.
- 2.3.** The OWNER shall furnish laboratory tests, inspections and reports as required by law or the Contract Documents.
- 2.4.** If the OWNER observes or otherwise becomes aware of any fault or defect in the Project or nonconformance with the Contract Documents, prompt written notice thereof shall be given by the OWNER to the COMMISSIONING AGENT.
- 2.5.** The OWNER will assign Field Representative for regular observation of the Work during the Construction Phase, who will report his observations to the COMMISSIONING AGENT and the Project Manager.
- 2.6.** The OWNER will make available the existing building and site drawings for the COMMISSIONING AGENT'S use. Existing drawings remain the property of the OWNER and shall be returned promptly.

**ARTICLE 3
CONSTRUCTION COST**

3.1. DEFINITION

- 3.1.1.** The Construction Cost shall be the total cost or estimated cost to the OWNER of all elements of the Project designed as incorporated into the construction contract.

**ARTICLE 4
COMPENSATION AND PAYMENTS**

- 4.1.** For the purposes of the Agreement, hourly rates of COMMISSIONING AGENT'S employees and SUB-CONSULTANTS engaged on the Project by the COMMISSIONING AGENT to perform Additional Services shall be as follows:

Person/Classification title	Cost/Hour \$000.00
----------------------------------------	-------------------------------

title (Weekend and/or over 7:00 pm Weekdays) \$000.00

For the purposes of this agreement, principals are as follows:

name, title

4.2. REIMBURSABLE EXPENSES

Reimbursable expenses are in addition to the Compensation for Basic and Additional Services and include actual expenditures made by the COMMISSIONING AGENT and the COMMISSIONING GENT'S employees and SUB-CONSULTANTS in the interest of the Project for the expenses listed in the following paragraphs.

4.2.1. Reimbursable expenses for authorized out-of-town travel by private vehicle will be reimbursed at the rate established by the Idaho State Board of Examiners and in effect at the time the travel occurred, lodging at cost not to exceed \$110 per day and meals at cost not to exceed \$55 per day per person. Travel by air and/or rental car (if authorized) will be reimbursed at cost verified by receipt. Reimbursable expenses for out-of-state travel will be agreed to prior to travel and meal reimbursable will not exceed \$55 per day per person.

For the purposes of this agreement travel between the COMMISSIONING AGENT'S office or the COMMISSIONING AGENT'S SUB-CONSULTANTS' offices and the project site are not considered out of town travel.

4.2.2. Expense of reproductions of plans and specifications when authorized by the OWNER for review purposes, for bidding purposes and for record documents are reimbursable at cost, or if printed in-house at the rate of \$.10 per square foot as measured by sheet size for plans and at the rate of \$.05 per page for specifications. Duplexing of specifications is highly encouraged. Postage and/or shipping charges of these documents for bidding purposes will be reimbursed at cost.

4.3. PAYMENTS ON ACCOUNT OF BASIC SERVICES

4.3.1. Payments for Basic Services shall be made monthly and shall be in proportion to services performed within each Phase of services, on the basis set forth in ARTICLE 1. The OWNER payment shall be submitted and processed through OMS. Payments shall become due and payable within forty-five (45) days from date of receipt by the OWNER.

4.3.2. If and to the extent that the Contract Time initially established in the Contract for Construction is exceeded or extended by more than ninety (90) days through no fault of the COMMISSIONING AGENT, compensation for any Basic Services required during extended period of Administration of the Construction Contract shall be computed as set forth in paragraph 1.5 for Additional Services.

4.4. PAYMENTS ON ACCOUNT OF ADDITIONAL SERVICES

4.4.1. Payments on account of the COMMISSIONING AGENT'S Additional Services, as defined in paragraph 1.5, and for Reimbursable Expenses, as defined in ARTICLE 4, shall be made monthly upon presentation of the COMMISSIONING AGENT'S statement of services rendered or expenses incurred. Itemized statements including employee hours worked, rates, and invoices shall be submitted in addition to the payment form. A summary sheet shall be included with items totaled.

4.5. PAYMENTS WITHHELD

4.5.1. No deductions shall be made from the COMMISSIONING AGENT'S compensation on account of liquidated damages or other sums withheld from payments to Contractors.

4.5.2. The OWNER may withhold a reasonable retainage from the COMMISSIONING AGENT'S compensation when the OWNER has reason to believe the OWNER has been damaged by errors and/or omissions of the COMMISSIONING AGENT. If such a retainage is withheld, the OWNER shall notify the COMMISSIONING AGENT in writing.

4.6. ACCOUNTING RECORDS

4.6.1. Records of reimbursable expenses and expenses pertaining to Additional Services shall be kept on the basis of generally accepted accounting principles and shall be available to the OWNER or the OWNER'S authorized representative with each pay request.

ARTICLE 5 TERMINATION

5.1. If the Project is suspended or abandoned in whole or in part for more than six (6) months, the COMMISSIONING AGENT shall be compensated for all services performed prior to receipt of written notice from the OWNER of such suspension or abandonment, together with reimbursable expenses then due. If the Project is resumed after being suspended for more than six (6) months, the COMMISSIONING AGENT'S compensation shall be equitably adjusted.

5.2. This Agreement may be terminated by either party upon seven (7) days' written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.

5.3. This Agreement may be terminated by the OWNER upon at least seven (7) days' written notice to the COMMISSIONING AGENT in the event that the Project is permanently abandoned.

5.4. In the event of termination, not the fault of the COMMISSIONING AGENT, the COMMISSIONING AGENT shall be compensated for all services performed to the termination date, together with reimbursable expenses then due.

5.5. The OWNER may terminate this Agreement for convenience at any time upon thirty (30) days' written notice. Upon such termination for convenience, the sole obligation of the OWNER shall be to pay for work satisfactorily completed to the date of termination. In the event that the OWNER terminates the Agreement for default under paragraph 5.2 and it is later determined, either by mutual agreement or in a legal proceeding, that there was no default, the termination shall be deemed a termination for convenience.

ARTICLE 6 SUB-CONSULTANTS, SUCCESSORS AND ASSIGNS

6.1. The OWNER and the COMMISSIONING AGENT, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the other party to this Agreement and to the partners, successors, assigns, and legal representatives of such other party with respect to all covenants of this Agreement. Neither the OWNER nor the COMMISSIONING AGENT shall assign, sublet or transfer any interest in this Agreement without the written consent of the other.

6.2. Approval by the OWNER of the COMMISSIONING AGENT's request to subcontract engineering or consulting (SUB-CONSULTANT) services or acceptance of or payment for sub-consultant work by the OWNER shall not in any way relieve the COMMISSIONING of any responsibility under this Agreement. The COMMISSIONING AGENT shall be and remain liable for all damages to the OWNER caused by negligent performance or non-performance of work under this Agreement by the COMMISSIONING AGENT'S SUB-CONSULTANT(s).

6.3. The COMMISSIONING AGENT shall require the SUB-CONSULTANT to maintain such Commercial General Liability insurance that it deems necessary and advisable with minimum limits of \$1,000,000/\$1,000,000 to protect its interest and that of the OWNER. The State of Idaho, DPW, Idaho Division of Veterans Services will be named an Additional Insured on any general liability and property policies carried and required by this Agreement.

6.4. The COMMISSIONING AGENT shall require the SUB-CONSULTANT to 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.

6.5. The COMMISSIONING AGENT shall require the SUB-CONSULTANT to carry Commercial Auto Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 per occurrence with respect to their owned, hired or non-owned vehicles, assigned to or used in the performance of the Work.

6.6. The COMMISSIONING AGENT shall require the SUB-CONSULTANT to obtain Professional Liability Insurance, in an amount no less than \$1,000,000 per claim/aggregate. combined single limit. The COMMISSIONING AGENT shall be responsible to pay all premiums, deductibles and all costs not covered by such insurance.

ARTICLE 7 PREPARATION, OWNERSHIP AND USE OF DOCUMENTS

7.1. Except as provided in paragraph 7.2, drawings, specifications, and calculations, as instruments of services, are and shall remain the property of the COMMISSIONING AGENT, whether the Project for which they are made is executed or not. The OWNER shall be permitted to retain copies, including reproducible and electronic copies, of drawings, specifications and calculations for information and reference in connection with the OWNER'S use and occupancy of the Project. The OWNER may utilize the drawings for reference as a basis for future renovations, remodels and additions and may use designs, concepts, details, and similar features for the purpose of matching future construction with existing construction. The drawings, specifications, and calculations shall not be used by the OWNER on other projects, except by agreement in writing of the COMMISSIONING AGENT.

7.2. In the case of termination, for cause, of the COMMISSIONING AGENT'S services, the designs, drawings, specifications, and calculations, as progressed to the date of termination, shall become the property of the OWNER and will be made available to the OWNER and any successor architect for continuation of the Project. Any reuse by the OWNER or by third parties shall be at the sole risk of the OWNER.

7.3. Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the COMMISSIONING AGENT'S rights.

**ARTICLE 8
DISPUTES AND REMEDIES**

8.1. Any dispute concerning a question of fact arising under this contract shall be determined as provided by Idaho law.

**ARTICLE 9
INSURANCE**

9.1. All insurance carriers providing coverage under this Agreement, shall be rated an “A” or above by Best’s Insurance Rating Service. Evidence of insurance coverage or self-insurance shall be in the form of a certificate of insurance or statement of financial responsibility. The COMMISSIONING AGENT 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 COMMISSIONING AGENT will provide notification by written notice, by certified or registered mail, return receipt requested.

9.2. The COMMISSIONING AGENT 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. The STATE OF IDAHO, DIVISION OF PUBLIC WORKS, IDVS be named an Additional Insured on any general liability and property policies carried and required by this Agreement. The insurance afforded by the COMMISSIONING AGENT 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 COMMISSIONING AGENT or its SUB-CONSULTANTS.

9.3. The COMMISSIONING AGENT 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.

9.4. The COMMISSIONING AGENT shall carry Commercial Auto Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 per occurrence with respect to their owned, hired or non-owned vehicles, assigned to or used in the performance of the Work.

9.5. The COMMISSIONING AGENT shall provide Professional Liability Insurance, in an amount no less than \$1,000,000 per claim. The COMMISSIONING AGENT shall be responsible for paying all premiums, deductibles, and all costs not covered by such insurance.

9.6. 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 twenty-four (24) months thereafter. The COMMISSIONING AGENT shall be responsible for furnishing certification of “tail” coverage or continuous “claims made” liability coverage for twenty-four (24) months 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.

9.7. The COMMISSIONING AGENT shall indemnify, defend and save harmless the STATE OF IDAHO, THE DIVISION OF PUBLIC WORKS, IDVS, their officers, agents and employees from and against any liability, claims, damages, losses, expenses, actions and suits whatsoever, including injury or death of others or any employees of the COMMISSIONING AGENT or the COMMISSIONING AGENT’S SUB-CONSULTANT caused by or arising out of the negligent performance, act or omission by the COMMISSIONING AGENT of any term of this contract.

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

ARTICLE 10 INDEMNIFICATION

10.1. GENERAL LIABILITY

10.1.1 COMMISSIONING AGENT shall indemnify, defend, and hold harmless the State, its officers, agents, employees, and volunteers from and against any and all liability, claims, damages, losses, expenses, actions, settlements, attorneys' fees, and suits whatsoever caused by, arising out of, or in connection with COMMISSIONING AGENT'S acts or omissions under the Contract or COMMISSIONING AGENT'S failure to comply with any State or federal statute, law, regulation, or rule ("Liability"). For purposes of section 10.1, Liability shall not include "Professional Services," defined in section 10.2.

10.1.2 Upon receipt of the State's tender of indemnity and defense for Liabilities defined in section 10.1.1, COMMISSIONING AGENT 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. COMMISSIONING AGENT 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 the Contract. THE COMMISSIONING AGENT 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.

10.2. PROFESSIONAL SERVICES

10.2.1 COMMISSIONING AGENT shall indemnify and hold harmless the State, its officers, agents, employees, and volunteers from and against any and all liability, claims, damages, losses, expenses, actions, settlements, attorneys' fees, and suits whatsoever caused by, arising out of, or in connection with COMMISSIONING AGENT's acts or omissions under the Contract or COMMISSIONING AGENT'S failure to comply with any State or federal statute, law, regulation, or rule relating to Professional Services.

10.2.2 As used in this section 10.2, "Professional Services" means those services performed by a licensed professional employed by COMMISSIONING AGENT under the scope of such license or a person performing such services under the direct supervision of a licensed professional.

10.2.3 Notwithstanding the foregoing, COMMISSIONING AGENT'S indemnity under this paragraph arising from "Professional Services" is limited to those liabilities arising from the COMMISSIONING AGENT'S negligence, or error, omissions, or failure to perform Professional Services.

10.2.4 The OWNER shall provide the COMMISSIONING AGENT with timely notice of Professional Services claims. Upon receipt of claims under this section, the COMMISSIONING AGENT is required to immediately report all claims to its insurance carrier.

10.3. Any legal defense provided by the COMMISSIONING AGENT to the State under Article 10 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 11 NO WAIVER OF SOVEREIGN IMMUNITY

11.1. 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 12 EXTENT OF AGREEMENT

12.1 This Agreement represents the entire and integrated Agreement between the OWNER and the COMMISSIONING AGENT and supersedes all prior negotiations, representations or agreement, either written or oral. This Agreement may be amended only by written instrument signed by both the OWNER and the COMMISSIONING AGENT.

ARTICLE 13 MISCELLANEOUS PROVISIONS

13.1. Unless otherwise specified, this Agreement shall be governed by the laws of the State of Idaho.

13.2. Defined terms in this Agreement shall have the same meaning as those in the current edition of the Division of Public Works, Construction Manager General Contractor Agreement.

13.3. As between the parties to this Agreement: as to all acts or failures to act by either party to this Agreement, any applicable statute of limitations shall commence to run, and any alleged cause of action shall be deemed to have accrued in any and all events in accordance with Idaho law.

13.4. The COMMISSIONING AGENT waives all rights against the OWNER and its employees for damages covered by any property insurance during construction as set forth in the current edition of the Division of Public Works, Construction Manager General Contractor Agreement. The COMMISSIONING AGENT shall require appropriate similar waivers from its SUB-CONSULTANTS and agents.

13.5. The COMMISSIONING AGENT shall report to the OWNER the presence and location of any hazardous material which the COMMISSIONING AGENT notices or which a design professional of similar skill and experience should have noticed. The COMMISSIONING AGENT agrees to exercise reasonable care and diligence during normal on-site observations, visits, and investigations of the premises for potential or current health hazards.

13.5.1. Discovery of asbestos will be considered a changed condition and will be handled as an additional service or may be handled under a separate contract.

13.6 Boycott of Israel: Pursuant to Idaho Code section 67-2346, if payments under the Contract exceed one hundred thousand dollars (\$100,000) and COMMISSIONING AGENT employs ten (10) or more persons, COMMISSIONING AGENT 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.

13.7 Ownership or Operation by China: Pursuant to Idaho Code section 67-2359, COMMISSIONING AGENT 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.

ARTICLE 14 BUSINESS ORGANIZATION

14.1. Knowing that the OWNER is relying upon the truth of these representations and warranties as an inducement to enter into this agreement, the COMMISSIONING AGENT represents and warrants to the OWNER as follows:

14.1.1. The COMMISSIONING AGENT is organized as a (entity type-LLC, etc.).

14.1.2. The name and address of the COMMISSIONING AGENT is:

Commissioning firm name
Firm address
city, state zipcode

14.1.3. Partner/Corporate Officer: name, title

14.1.4. The person executing this Agreement, by signing below, is duly authorized by the COMMISSIONING AGENT to bind them to the terms of the Agreement.

ARTICLE 15 BASIS OF COMPENSATION

15.1. The OWNER shall compensate the COMMISSIONING AGENT for the Scope of Services provided, in accordance with ARTICLE 4, Compensation and Payments, and the other Terms and Conditions of this Agreement, as follows:

15.1.1. BASIC COMPENSATION

15.1.1. THE TOTAL COMPENSATION FOR BASIC SERVICES shall be a fixed fee in the amount of **\$ amount.**

15.1.2. The COMMISSIONING AGENT shall be compensated on a percentage basis of the work completed.

15.2. ADDITIONAL COMPENSATION

15.2.1. For Additional Services of the COMMISSIONING AGENT, as described in paragraph 1.8, including Additional Services of SUB-CONSULTANTS, Compensation shall be computed by multiplying the actual hours involved times the hourly rates listed in ARTICLE 4.

15.2.2. If the scope of the Project or the COMMISSIONING AGENT'S Services is changed, the COMMISSIONING AGENT and the OWNER shall establish compensation prior to commencing Work.

15.2.3. If the services covered by this Agreement have not been completed within twenty-four (24) months of the date hereof, through no fault of the COMMISSIONING AGENT, the amounts of compensation and rates set forth herein shall be subject to renegotiation.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

OWNER:

COMMISSIONING AGENT:

State of Idaho
Division of Public Works
Boise, Idaho

By: _____
Kelly Berard, Administrator

By: _____
Signature, Duly Authorized

Printed _____

Title _____

TAX ID #xx-xxxxxxx