# PROJECT MANUAL FOR:

# Light Construction - State Facilities

# Southwest (Region II)

# DPW Nos.: 27849, 27850, & 27851

July 10, 2026

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# ADVERTISEMENT FOR BIDS

Sealed proposals will be received by Division of Public Works, State of Idaho at 502 N. 4th Street, Boise Idaho 83702 until 1:30 p.m., prevailing local time, on Thursday, December 3, 2026 for three contracts, DPW Project Nos. 27849, 27850, & 27851, Light Construction Service Contract - State Facilities located in Southwest Idaho (Region II).

Work done under this Service Contract includes miscellaneous small Light Construction projects. These may include but are not limited to, minor demolition and renovations, to include metal and wood stud framing, drywall, taping, texturing, rough carpentry, finish carpentry, masonry, painting, and suspended ceilings. It is required that a minimum of 20% of the work performed will be done with the Contractor's own forces, employed directly by the Contractor. This will include the potential of multiple projects up to $200,000 per project, and plans and specifications will be provided at time of need.

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:

**Division of Public Works**
502 N. 4th Street
Boise, ID, 83702
(208) 332-1900

DPW Contact: Daniel C. Asbury
Deputy Administrator
(208) 332-1912

A bid bond in the amount of $10,000 is required.

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

**Estimated Expenditure: $200,000**
Two Hundred Thousand Dollars

Daniel C. Asbury, Deputy Administrator
Division of Public Works

END OF ADVERTISEMENT FOR BIDS

# INSTRUCTIONS TO BIDDERS

## 1. GENERAL PROVISIONS

**A. DEFINITIONS:** Capitalized terms used in these Instructions to Bidders ("Instructions") shall have the meaning given to them in the Division of Public Works' Service Contract Between Owner and Contractor.

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

**C. 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 solicitation.

**D. ORAL INFORMATION:** Questions concerning a bid must be directed in writing to the designated Professional (Daniel Asbury, Deputy Administrator) 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 to 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.

**E. 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.

**F. FORM OF AGREEMENT:** Unless otherwise specified in the bid documents, the agreement between the successful bidder and the Owner ("State of Idaho") shall substantially be in the form of the Contract.

**G. PERFORMANCE AND PAYMENT BONDS:** A performance bond and payment bond are required for this Project as noted in section 24.1 of the Service Contract Agreement for all projects over $50,000. The performance and payment bonds shall be AIA Document A312, 2010 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.

## 2. BID SUBMISSION PROCESS

**A. BID DOCUMENTS:** The bid documents are available from the Owner or as provided in the Invitation to Bid or Advertisement for Bids. The bidder is required to use a complete set of bid documents to prepare its bid, and the Owner 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 document

**B. ADDENDA:** 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 bid closing date. If an addendum becomes necessary within four calendar days of the bid closing date, the bid closing date will be extended.

**C. REVIEW:** It is the bidder's responsibility to review the bid documents and compare them as needed, and to report, in writing, any questions, errors, inconsistencies or ambiguities to the Owner at least 10 calendar days before bids are due unless provided otherwise via an addendum..

**D. BID FORM:** Bids must be submitted on the bid proposal forms, or copies of forms, furnished by the Owner. 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) Bid Bond (bid security)

The person signing the Bid Proposal Form must initial and date, in blue ink, 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.

**E. 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.

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

**G. SEALED ENVELOPE:** Bids shall be submitted in a sealed envelope with the following clearly printed on the outside of the envelope:

"SEALED BID, Light Construction Service Contract – State Facilities, Southwest (Region II), DIVISION OF PUBLIC WORKS"

**H. 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:

Division of Public Works
502 N. 4th Street
P. 0. 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 that 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.**

I. **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 timely received bids shall be taken under advisement.

J. **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.

K. **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.

L. **LEGAL RESIDENCY REQUIREMENT:** By submitting a bid, the bidder attests, under penalty of perjury, that he or she (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.

M. **PUBLIC WORKS CONTRACTOR'S LICENSE:** This Project is not financed in whole or in part by federal funds. Bids will be accepted only from those Contractors (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.

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

O. **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.

## 3. BID SECURITY

A. **AMOUNT AND FORM OF SECURITY:** To be considered, bids must be accompanied by an acceptable bid security in an amount of Ten-Thousand Dollars ($10,000). The security may be in the form of a bond or a certified cashier's check. A standard surety bid bond form meeting all the conditions of AIA Document

A3IO 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.

**B. FORFEITURE:** A successful bidder who fails to sign the Service Contract Agreement 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.

**C. 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.

## 4. BID WITHDRAWAL

**A. 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 is released. After the bid closes, no bid may be withdrawn except in strict accordance with these Instructions or applicable law.

## 5. BID MODIFICATION

A. **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: 27849, 27850, & 27851; "Light Construction Service Contract - State Facilities, Southwest ( Region II)". **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 evidence satisfactory to establish the authority to act on behalf of the submitting bidder. No other form of modification will be accepted. After the bid closes, no bid may be modified except in strict accordance with these instructions or applicable law.

## 6. RELIEF FROM BIDS

**A. CONDITIONS FOR RELIEF:** Relief from bids is subject to Idaho Code Sections 54-1904B, 54-1904C, 54-1904D, and 54-1904E. 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.

**B. 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.

## 7. BIDDER'S REPRESENTATIONS

**A. 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) Bidder has all required licenses, permits or other authorizations necessary to submit its bid;
3) Bidder has received, read and reviewed the Contract, has submitted any questions in writing regarding the same and has received an answer to such questions;
4) Bid is based upon the requirements of the Contract without exception;
5) Bidder is in compliance with Title 72, Chapter 17, Idaho Code, regarding a drug-free workplace and has included the required affidavit regarding the same;
6) Bidder is in compliance with employment of persons authorized to work in the United States;
7) Bidder 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.
8) Bid prices shown for each item on the bid proposal form include all labor, material, equipment, overhead and compensation to complete all of the Work for that item.

## 8. BID AWARD

**A. AWARD METHOD:** Service 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 Total Bid Amount, plus any weighting criteria selected by the Owner, and identified within the bid documents. The Owner anticipates issuing four contracts, one to each contractor submitting the four lowest bids. 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.

**B. DETERMINATION OF RESPONSIBILITY:** The Owner reserves the right to make reasonable inquiries about, or from, the submitting bidder or 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.

**C. 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.

**D. INCURRING COSTS:** The Owner is not liable for any cost incurred by bidders prior to the contract approval.

**E. 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.

**F. 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 and proof of insurance.

**G. OWNER'S RIGHT TO REJECT:** Prior to execution of the Contract, the Owner 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

# 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 Light Construction Services Contract: DPW Project No. 27849, 27850, & 27851 Light Construction Service Contract - State Facilities, Southwest (Region II), having examined the Instructions to Bidders, this Bid Proposal and all attachments hereto, hereby proposes to furnish all labor, materials and supplies and to provide the service and insurance in accordance with the Contract Documents, and at the prices stated below. These prices are to cover all expenses incurred, including business overhead, profit, employee benefits, taxes, trade specific tools and equipment, transportation, vehicles, etc. to perform the Work required under the Contract Documents. See Service Contract Exhibits A and C for project specific specialty equipment examples, payments, etc.

Bidder hereby agrees to commence Work under this Contract upon receipt of a written Notice to Proceed from the Owner and to expeditiously complete the Work. The Contract will be in effect for a period of one year from the Effective Date of the Contract with provisions for two, one-year extensions.

The following Attachments are incorporated herein by this reference:

A. Contractor's Affidavit Concerning Alcohol and Drug-Free Workplace
B. Division of Public Works Light Construction Service Contract Form of Agreement

**Bidder acknowledges receipt of Addenda No. _____** **Bidder Initial**. _____
*(Note: If there are multiple, specifically acknowledge each individual Addenda)*

## 1. Hourly Rates for Labor:

**A. Project Management: $_____** Per Hour Multiplied by **20** (Twenty) Hours = **TOTAL of $_____**

**1) Per Hour Cost (In Words)** _____
*(Example: "Forty-Seven Dollars")*

**2) Total PM (In Words)** _____

**B. Superintendent**: $_____ Per Hour Multiplied by **40** (Forty) Hours = **TOTAL of $_____**

**1) Per Hour Cost (In Words)** _____

**2) Total Superintendent (In Words)** _____

**C. Journeyman Labor**: **$**_____ Per Hour Multiplied by **100** (One Hundred) Hours = **TOTAL of $**_____

1) **Per Hour Cost (In Words)** _____

2) **Total (In Words)** _____

**D. General Labor: $**_____ Per Hour Multiplied by **20** (Twenty) Hours = **TOTAL of $**_____

1) **Per Hour Cost (In Words)** _____

2) **Total General Labor (In Words)** _____

## 2. Materials, Specialty Equipment, and Parts :

**A. Materials, Specialty Equipment, and Parts (MSE+P):** Materials, specialty equipment, and parts charges will be paid at the invoice cost plus the following percentage markup.

Cost Plus _____**%** Markup on **$10,000** (Ten Thousand Dollars) = **TOTAL of $**_____
*(Example: Cost Plus **10%** Markup on $10,000 = TOTAL of **$11,000**)*

1) **Percent Markup (In Words)** _____
*(Example: "**Ten Percent**")*

2) **Total MSE+P (In Words)** _____

**B. Subcontracted Services (SUB):** Subcontracted Services will be paid at the invoice cost plus the following percentage markup.

Cost Plus _____**%** Markup on **$160,000** (One-Hundred-Sixty Thousand) = **TOTAL of $**_____

1) **Percent Markup (In Words)** _____

2) **Total SUB (In Words)** _____

**C. TOTAL BID AMOUNT: $**_____
Total bid amount reflects the addition of Totals from 1.A + 1.B + 1.C + 1.D + 2.A + 2.B

1) **Total Bid (In Words)** _____

## 3. Bidder Requirements:

**A.** Bond costs, shipping costs, permit fees and taxes will be paid at the contractor's or subcontractor's actual invoice cost, without markup. A copy of ALL invoices and timesheets must be submitted with billings for any item exceeding $100.00. The Contractor shall provide invoices for all items.

**B.** The annual labor hours and material costs factors are for bid evaluation only. The actual hours worked, and materials furnished in a one-year period will and may vary.

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

**D.** 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.

**E.** Upon receipt of written Notice of Intent to Award (NOI) of this bid, Bidder will execute the formal Contract within ten (10) calendar days and deliver Insurance Certificates as required by Article 21 of the Contract and deliver a Surety Bond or Bonds as required by Article 1.G of the ITB

**F.** The bid security in the amount of $10,000 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.

**G.** Bidder understands that a Contract shall be awarded to each of the four lowest responsive bidders as determined by the formula for bid evaluation contained within this bid proposal.

**H.** Bidder warrants that this bid has been prepared and that any contract resulting from acceptance of this bid is subject to the Service Contract.

**I.** Bidder warrants that they actively conduct business in, and have a principal office located within 50 miles of, Region III, as specified in Attachment B.

## 4. Signatures/Licenses:

**A.** 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** _____

**B.** By signing this document, the undersigned acknowledges that they have reviewed and understand the terms and conditions of Attachment B – Contract, and will accept these terms if awarded the contract.

*Signatures Following Page*

Dated this _____ Day of July 2026

(Date)

Corporate Seal (Optional)

Respectfully Submitted by:

_____

(Contractor's Name)

_____

(Street or PO Address)

_____

(City, State and zip code)

_____

(Authorized Signature)

_____

(Title)

_____

(Telephone Number)

_____

(Email Address)

# Attachment A

## CONTRACTOR'S AFFIDAVIT
## CONCERNING ALCOHOL AND DRUG-FREE WORKPLACE

STATE OF _____

COUNTY OF _____

Pursuant to Section 72-1717, Idaho Code, I, the undersigned, being duly sworn, depose and certify that

_____ *(Company/Contractor Name)*

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

_____
Title

_____
Address

_____
City and State

Corporate Seal (Optional)

By: _____
(Authorized Signature)

Subscribed and sworn to before me this _____ day of _____ in the year _____
Day Month Year

Notary Stamp

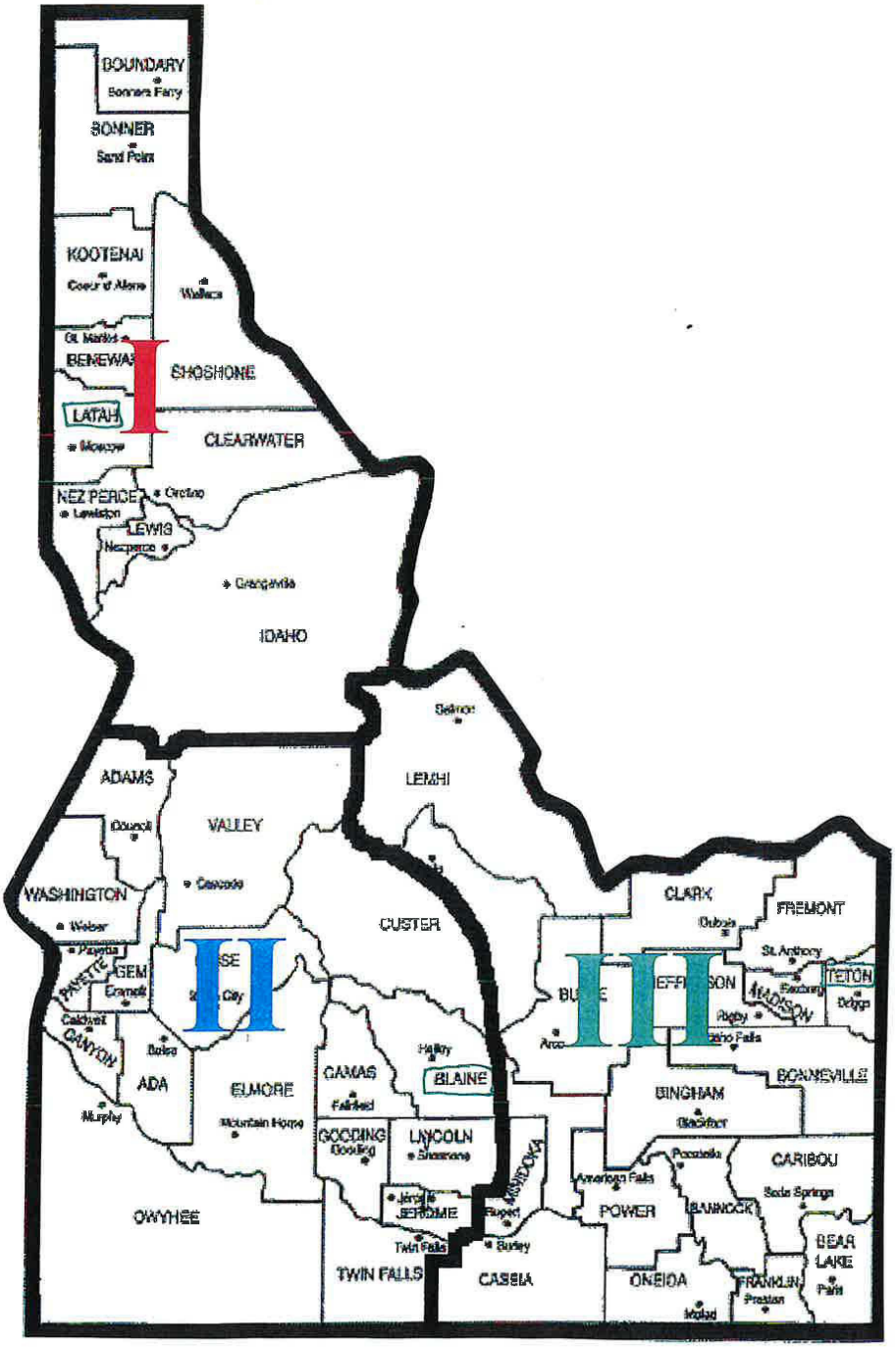
_____
NOTARY PUBLIC

Residing at: _____

Commission expires: _____

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

# Attachment B



**Attachment C**

# DIVISION OF PUBLIC WORKS
# SERVICE CONTRACT
# BETWEEN OWNER AND CONTRACTOR

**LIGHT CONSTRUCTION**

**STATE FACILITIES – SOUTHWEST (REGION II)**

**DPW PROJECT NOS. 27849, 27850, & 27851**

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**J** **TRAINING CONFIRMATION SIGN IN SHEET**

**K** **PROJECT FINALIZATION AND START-UP**

**LIGHT CONSTRUCTION SERVICE CONTRACT**
**BETWEEN OWNER AND CONTRACTOR**

THIS LIGHT CONSTRUCTION SERVICE 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 work performed under DPW Project No. 27849, 27850, & 27851 LIGHT CONSTRUCTION SERVICE CONTRACT AND STATE FACILITIES, SOUTHWEST (REGION II), (the Project) 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 Conditions 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, and any written orders by the Owner 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.

**1.3** The Contractor will receive detailed information for each separate scope of work (each such scope of work is a "Project"), and approval to proceed will be issued by the Owner describing each Project, including scope and method of compensation through the Owner's Web-based Management System).

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

In order 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 and subsequent information as provided per paragraph 1.3.

**2.3** The Contractor warrants that in accordance with Idaho Code 54-1902, Contractor will self-perform no less than 20% of the Work and services required by the Contract Documents.

**2.4** 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, Summary of Work 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.

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

**2.6** The Contractor warrants to the Owner 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 final payment to the Contractor for any specific Project.

**2.7 Required Certifications**.

**2.7.1** **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.

**2.7.2** **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.

**2.7.3** **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. The Owner may immediately terminate at its convenience the Agreement upon receipt of information that a contract is in violation of the terms of this section.

**2.7.4** **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.

## 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, assigned under this contract, 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 Service Contract Amount(s). 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 Owner 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 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 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 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 will prepare documents for the Project, including the Drawings and Specifications for the Project, 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 Owner shall interpret the documents and the Owner's 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 Claims in accordance with Article 13 and Article 14. If no interpretation is provided by the Owner, the most stringent requirement in the Contract Documents will apply.

## ARTICLE 4
## OWNERSHIP OF DOCUMENTS

**4.1** Unless otherwise agreed by the Owner, 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.

**4.2** The Drawings and Specifications and other documents, and any copies, are to be used solely for work done under this contract, and not on any other project, or outside this Contract, without written consent of the Owner and/or the Owner'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 Work required, implied or reasonably inferable from this Contract, including the following:

**5.1** Construction of each Project as defined by each approval through the Owner's Web-based Management System.

**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, required for the construction of the Project. Construction projects for the State of Idaho require a building permit and all necessary permits, issued by the Division of Occupational & Professional Licenses (DOPL).

**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 Owner 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 the work in accordance with the approval from the Owner's Web-based Management system and shall diligently continue its performance to and until final completion of each Project. The Contractor shall accomplish Substantial Completion of each Project on or before the time indicated in each approval from the Owner's Web-based Management System. 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 each approval from the Owner's Web-based Management System 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 to 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 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.

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

**6.5** 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
## SERVICE 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 authorized compensation indicated in each approval from the Owner's Web-based Management System using the established labor rates and other compensation provisions contained in Exhibit A. The authorized compensation shall not be modified except as provided in this Contract.

**7.2** Prior to submitting the first pay application, the Contractor shall prepare and present to the Owner the Contractor's Schedule of Values apportioning the authorized compensation 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 System. The Contractor shall not imbalance it's 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 so utilized after it has been approved in writing by the Owner. A Schedule of Values is not required on projects with an authorized compensation amount of less than $50,000.

**7.3** The Owner shall make payment to the Contractor in accordance with the procedures set forth in this Article. The Contractor shall submit a Contractor's Request for Payment, after commencement of performance, but no more frequently than once monthly. Said payment request shall be made in the Owner's Web-based Management System and shall include all supporting information required by the Owner. 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, based on the Service 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. The Contractor's Request for Payment must exclude the total amount of previous payments received from the Owner. Each such Contractor's Request for Payment shall be approved by the Contractor and its submission into the Owner's Web-based Management System 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 Owner 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 Owner shall approve the amount which, in the opinion of the Owner, is properly owing to the Contractor and such approval is required before the Owner shall have any payment obligation. The Owner 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 each Contractor's Request for Payment as approved in the Owner's Web-based Management System. The amount of each such payment shall be the amount approved for payment by the Owner 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 Owner'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 is not approved under this Agreement.

**7.6** When payment is received from the Owner, the Contractor shall immediately pay all subcontractors, materialmen, laborer 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:

**7.8.1** 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;

**7.8.2** 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;

**7.8.3** 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;

**7.8.4** The Owner reasonably believes that the Contractor has failed to use Contract funds, previously paid to the Contractor by the Owner, to pay Contractor's project-related obligations, including subcontractors, laborers and material and equipment suppliers;

**7.8.5** There are claims made or it seems reasonably likely that claims will be made, against the Owner;

**7.8.6** The Contractor has caused a loss or damage to the Owner, or another contractor;

**7.8.7** The Owner reasonably believes that the Project cannot be completed for the unpaid balance of the Contract Amount, or the Owner reasonably believes that the Project cannot be completed within the Contract Time and that the unpaid balance of the Contract Amount would be inadequate to cover the cost of actual or liquidated damages for the anticipated delay;

**7.8.8** The Contractor fails or refuses to perform any of its obligations to the Owner; or

**7.8.9** The Contractor fails to pay taxes as required by Title 63, Chapter 15, Idaho Code. In the event that the Owner makes 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.

**7.9** If the Owner, without cause, fails to pay the Contractor any amounts due and payable forty-five (45) 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 amount remains unpaid after fifty-one (51) days after the Owner approves the Contractor's Request for Payment under Paragraph 7.4, interest at the rate of four percent (4%) per annum shall accrue on those unpaid amounts.

**7.10** When Contractor considers Substantial Completion has been achieved, the Contractor shall notify the Owner in writing and shall furnish to the Owner a listing of those matters yet to be finished. The Owner will thereupon conduct an inspection to confirm that the Work is, in fact, substantially complete. Upon the Owner's confirmation that the Contractor's work is substantially complete, the Owner will notify the 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 Contract Amount, less the reasonable costs as determined by the Owner for completing all incomplete work, correcting and bringing into conformance all defective and nonconforming work, and handling any outstanding or potential claims. If the Owner 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 7.13. 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. Any acceptance other than in total shall require written agreement of Owner.

**7.10.1** For projects less than $50,000 the Contractor may submit a final billing as a means of establishing the date of Substantial Completion.

**7.11** When Contractor considers the Project is at final completion, it shall notify the Owner thereof in writing. Thereupon, the Owner will perform a final inspection of the Project. If the Owner 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, 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 Contract Amount, less any amount withheld pursuant to this Contract.

**7.12** Not Used.

**7.13** As a condition precedent to final payment, on projects with a Contract Sum exceeding $50,000, the Contractor must furnish the Owner, the form and manner required by Owner the following:

**7.13.1** 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;

**7.13.2** 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 G);

**7.13.3** Contractor's Affidavit of Debts and Claims (AIA Document G706);

**7.13.4** Consent of Surety to final payment (AIA Document G707);

**7.13.5** Confirmation of all Department of Occupational & Professional Licenses (DOPL) final inspections, State Fire Marshall approval, required training, product warranties, operating manuals, instruction manuals, other record documents, drawings and things customarily required of the Contractor;

**7.13.6** A Public Works Contract Tax Release issued by the Idaho Tax Commission (See "Request for Tax Release" form, Exhibit F, to be submitted by Contractor to the Idaho Tax Commission);

**7.13.7** Conditions Precedent to Final Payment - Exhibit H – Service Contract over $50,000, with all checklist items complete and signed.

**7.14** The Owner shall, subject to its rights set forth in this Contract, make final payment of all sums due the Contractor within forty-five (45) days of the Owner's execution of final approval for payment and receipt of documentation required by Paragraph 7.13, whichever is received later.

**7.15** Upon expiration and prior to renewal of the contract the Owner may consider adjustments to the Contractor's hourly rates. Except for any changes in the hourly rates resulting from a change order, the annual adjustment for inflation will be no more than 3 percent per year.

## ARTICLE 8
## INFORMATION AND MATERIAL SUPPLIED BY THE OWNER

**8.1** The Administrator of DPW or a designee of the Administrator of DPW shall be the sole representative of the State of Idaho. The Owner shall have authority to bind the Contractor 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 in order 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 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 & 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 Owner.

## 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 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 Owner 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 Owner and may constitute a claim pursuant to Article 13 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 & 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 Owner, and neither shall be changed except with the consent of the 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 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** On projects where the Contract Sum exceeds $50,000, the Contractor shall provide to the Owner a schedule for completing the Work within the Contract Time. Such schedule shall be in a form specified in the Specifications and be acceptable to the Owner. The schedule must be submitted to and accepted by the Owner prior to the first request for payment unless required earlier by the Specifications. The Contractor's schedule must be updated as required by 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. 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** Once a month, or at intervals as required by the Owner, the Contractor shall advise the Owner of the status of the Work (in duplicate) on the current milestone schedule. If any project dates are not met on schedule, the Contractor shall immediately advise the Owner 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 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.

**10.13** If the Work is not progressing through no fault of the Owner, as shown on the schedule, as determined by the Owner and the Owner 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.

**10.14** 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 of these items shall be available to the Owner at all regular business hours. Upon final completion of the Work, all of these items must be updated by the Contractor and provided to the Owner and shall become the property of the Owner. This paragraph is not applicable to projects authorized through an approval through the Owner’s Web-based Management System where no drawings or project manuals are utilized.

**10.15** 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 Owner 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 Owner 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 Owner shall not be evidence that Work installed pursuant thereto conforms with the requirements of this Contract. The Owner 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.

**10.16** 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.

**10.17** At all times relevant to this Contract, the Owner shall have a right to enter the Project site and the Contractor shall allow the Owner to review or inspect the work without formality or other procedure.

**10.18** The presence or duties of 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, 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 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. For this Contract only, construction sites include places of manufacture for materials incorporated into the construction Work and Contractor includes manufacturers of materials incorporated into the construction Work.

**10.19** All work completed by the Contractor shall be warranted for the period of one-year from the date of Substantial Completion to be free from all defects in materials, workmanship and quality. Contractor shall repair any items identified to be defective within the one-year period at no additional cost to the Owner. Warranties in addition to those identified above in this section, including manufacturer's warranties for equipment and materials shall be as identified in the project manuals, drawings or other documentation for each specific project as referenced in the Owner's Web-based Management System.

## ARTICLE 11
## INDEMNIFICATION

**11.1** The Contractor shall indemnify, defend and hold harmless the State of Idaho, Division of Public Works, Owner, its officers, agents, employees, 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 stature, 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.

**11.4** Notwithstanding any provision of the Agreement to the contrary, Owner does not have authority to and does not agree to indemnify Contractor.

## ARTICLE 12
## DUTIES, OBLIGATIONS AND RESPONSIBILITIES OF THE OWNER

**12.1** The Owner for this Project is identified in Exhibit B, incorporated herein by reference, along with any authorized representatives and any limitations of responsibility. The duties, obligations and responsibilities of the Owner shall be for contract administration and include the following:

**12.1.1** The Owner shall draft proposed change authorization(s).

**12.1.2** The Owner shall review and verify compliance or respond otherwise as necessary concerning shop drawings or other submittals received from the Contractor.

**12.1.3** The Owner shall be authorized to refuse to accept Work that is defective or otherwise fails to comply with the requirements of this Contract. If the Owner deems it appropriate, the Owner may, require extra inspections or testing of the Work for compliance with the requirements of this Contract.

**12.1.4** The Owner shall review the Contractor's Request for Payment and shall verify in writing those amounts which, in the opinion of the Owner, are properly owing to the Contractor as provided in this Contract.

**12.1.5** The Owner may require the Contractor to make changes which do not involve a change in the Contract Amount or in the Contract Time consistent with the intent of this Contract. Such changes shall be given to the Contractor in writing under signature of the Owner and may be in the form of a supplemental instruction.

**12.1.6** The Owner shall review and evaluate Claims and take other actions related to Claims in accordance with Articles 13 and 14.

## ARTICLE 13
## CLAIMS

**13.1** For purposes of this Contract, a "Claim" means a demand by the Contractor to the Owner, or by the Owner to the Contractor, for a change in the Contract Amount, an extension of the Contract Time, an adjustment to or interpretation of the Contract terms, 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 have previously discussed and failed to agree upon.

**13.2** For the Claim to be considered, it must meet the following requirements:

**13.2.1** The Claim must be in writing;

**13.2.2** The Claim by the Contractor must be signed by an authorized representative of the Contractor, and the Claim by the Owner must be signed by an authorized representative of the Owner;

**13.2.3** The Claim by the Contractor must be provided to the Owner and the Claim by the Owner must be provided to the Contractor;

**13.2.4** The Claim must be made no later than ten (10) days after the party making the claim becomes aware or should reasonably have become aware of the event or the first appearance of the circumstance giving rise to the Claim;

**13.2.5** The Claim must describe in detail all known facts and circumstances that the Contractor or Owner asserts support the Claim;

**13.2.6** The Claim must refer to the provision(s) of the Contract Documents that the Contractor or Owner asserts support the Claim;

**13.2.7** The Contractor or Owner must provide all documentation or other information to substantiate the Claim; and

**13.2.8** The Contractor or Owner must continue its performance under this Contract pending the resolution of any Claim; provided, however, that the Contractor shall not perform any additional or changed work not otherwise authorized in accordance with the Contract Documents.

**13.3** The failure by the Contractor to meet any of the requirements of Paragraph 13.2 shall constitute a complete waiver by the Contractor of any rights arising from or related to the Claim. Similarly, the failure by the Owner to meet any of the requirements of Paragraph 13.2 shall constitute a complete waiver by the Owner of any rights arising from or related to the Claim.

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

**13.4.1** 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

**13.4.2** The Contractor shall notify the Owner of the condition and shall not disturb the condition until the Owner has observed it or have waived in writing the right to observe it.

**13.5** If the Claim by the Contractor is for an increase in the Contract Amount, the following shall apply in addition to all other provisions applicable to the Claim:

**13.5.1** Any increase in the 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, claim 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

**13.5.2** The Owner shall have no liability for, and the Contract Amount shall not be increased related to, any claims 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 13.5.1.

**13.6** If the Claim by the Owner is for a change in the Contract Amount, all other applicable provisions to the Claim apply.

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

**13.7.1** The Contractor has been delayed in its performance by an act or omission of the Owner and through no fault of the Contractor;

**13.7.2** 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;

**13.7.3** 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

**13.7.4** 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.

**13.8** If a Claim 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 in accordance with Paragraph 13.2, that Claim shall be denied.

## ARTICLE 14
## RESOLUTION OF CLAIMS

**14.1** All Claims made in accordance with Article 13 shall be reviewed and evaluated by the Owner. If the Claim is not made in strict accordance with Article 13, it shall be rejected as waived. Any failure by the Owner to reject the Claim for failure to meet the requirements of Article 13 is not binding on the Owner and the Owner may reject the Claim for such failure.

**14.2** No later than seven (7) days from receipt of the Claim by the Owner, it shall:

**14.2.1** Make a written request to the Contractor or Owner for more data to support the Claim;

**14.2.2** Attempt to facilitate resolution of the Claim through informal negotiations; or

**14.2.3** If the Claim is by the Contractor, make a written recommendation to the Owner, with a copy to the Contractor, that the Owner reject or approve all or part of the Claim and state the reasons for the Owner's recommendation. If the Claim is by the Owner, make a written recommendation to the Contractor, with a copy to the Owner, that the Contractor reject or approve all or part of the Claim and state the reasons for the Owner's recommendation.

**14.3** If the Owner requests more data from the Contractor or the Owner under subparagraph 14.2.1, the Contractor or Owner 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 Owner will complete the evaluation of the Claim. Failure to respond at all or failure to provide data by the date specified in the response to the request shall result in the Claim being evaluated based on the information in the Owner's possession.

**14.4** In evaluating the Claim, the Owner may consult with the Contractor, the Owner or other persons with knowledge or expertise that may assist the Owner in its evaluation.

**14.5** No later than fourteen (14) days after receipt by the Owner's recommendation regarding the Contractor's Claim, the Owner shall, in writing, notify the Contractor of its decision regarding the Claim. No later than fourteen (14) days after receipt by the Contractor of the Owner's recommendation regarding the Owner's Claim, the Contractor shall, in writing, notify the Owner of its decision regarding the Claim.

**14.6** The Owner's decision regarding the Contractor's Claim is binding on the Owner and the Contractor but is subject to mediation in accordance with this Contract, and the Contractor's decision regarding the Owner's Claim is binding on the Owner and the Contractor but is subject to mediation in accordance with this Contract.

## ARTICLE 15
## SUBCONTRACTORS

**15.1** The Contractor may subcontract portions of the Work not done by the Contractor's own forces. The total amount of Work to be subcontracted shall not exceed 80% of the total value, including markup, of each approved contract through the Owner's Web-based Management System. Contractor shall self-perform no less than 20% of the Work with its own forces. Upon contract approval the Contractor shall identify to the Owner, in writing, those parties intended as subcontractors on the Project and the anticipated subcontract amounts. 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.

**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

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

**16.1.2** 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, or order for a minor change in the Work.

**16.2** Change Orders

**16.2.1** A "Change Order" is a written instrument prepared by the Owner and signed by the Owner and the Contractor, stating their agreement upon: a change in the work, any adjustment in the Contract Amount and any adjustment in the Contract Time;

**16.2.2** The adjustment to the contract shall be based on the hourly rates and allowed mark ups per Exhibit A.

**16.2.3** 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 Contract Amount and Contract Time. In the event a Change Order increases the 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

**16.2.4** 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 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** The Owner will have authority to order minor changes in the Work not involving adjustment in the Contract Amount or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be affected 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, such Work shall be uncovered and displayed for the Owner'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, be uncovered and displayed for the Owner'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 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 Contract Amount shall be reduced by the lesser of: (i) the reasonable costs of removing and correcting the defective or nonconforming Work; or (ii) 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 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:

**18.1.1** Issuance of an order by a court or by another public authority having jurisdiction and authority which requires all Work to be stopped; or

**18.1.2** 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 Not to Exceed 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:

**19.2.1** Demobilization and remobilization, including such costs paid to subcontractors;

**19.2.2** Preserving and protecting Work in place;

**19.2.3** Storage of materials or equipment purchased for the Project, including insurance thereon; and

**19.2.4** Performing in a later, or during a longer, time frame than that provided by this Contract.

**19.3** The adjustment of the Contract Amount shall include an amount for a reasonable profit. The adjustment of the 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:

**19.3.1** That performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or

**19.3.2** 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 and/or Owner'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:

**20.3.1** The Contractor shall submit a Termination Claim to the Owner specifying the amounts claimed due because of the Termination, together with costs, pricing or other supporting data required by the Owner. 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;

**20.3.2** 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

**20.3.3** 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:

**20.3.3.1** Unpaid Contract prices for labor, materials, equipment and other services provided or perfected prior to termination and acceptable to or accepted by the Owner;

**20.3.3.2** 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

**20.3.3.3** 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 20.3.3.2 or 20.3.3.3 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 20.3.3 exceed the total 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** 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. The State of Idaho, Division of Public Works 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 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** 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.

**21.5** The Contractor shall indemnify, defend and save harmless the State of Idaho, the Division of Public Works, 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 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.

## ARTICLE 22
## SOVEREIGN IMMUNITY

**22.1** 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.

**22.2** 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 sub-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 23
## PERFORMANCE AND PAYMENT BONDS

**23.1** The Contractor shall furnish separate performance and payment bonds to the Owner for each approved contract through the Owner's Web-based Management System for all projects over $50,000. Each bond shall set forth a penal sum in an amount not less than the Contract Amount and shall include a power of attorney attached to each bond. The signature of both the Contractor (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 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.

**23.2** 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.

**23.3** 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 24
## PROJECT RECORDS

**24.1** 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 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 25
## MISCELLANEOUS PROVISIONS

**25.1** 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.

**25.2** Pursuant to Section 54-1904A, Idaho Code, within thirty (30) days after approval through the Owner's Web-based Management System, 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.

**25.3** 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:

**25.3.1** 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;

**25.3.2** 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

**25.3.3** 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 into 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.

**25.4** Before entering into 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).

**25.5** 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)

**25.6** 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.

**25.7** 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.

**25.8** 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.

**25.9** 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 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 26
## EQUAL OPPORTUNITY

The Contractor shall maintain policies of employment as follows:

**26.1** 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.

**26.2** 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 27
## SUCCESSORS AND ASSIGNS

**27.1** 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 28
## SEVERABILITY

**28.1** 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 29
## MEDIATION

**29.1** Contractor Claims for additional cost or time are subject to Article 13, 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.

**29.2** 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.

**29.3** 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:

**29.3.1** 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;

**29.3.2** 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;

**29.3.3** Within fifteen (15) days of receipt of the mediation request, the non-requesting party shall respond in writing to the request;

**29.3.4** 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;

**29.3.5** 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;

**29.3.6** Unless otherwise mutually agreed to by the parties, the mediation shall be in Boise, Ada County, Idaho;

**29.3.7** The parties shall cooperate in arranging the other details of mediation, such as selection of the mediator, mediation dates and times;

**29.3.8** 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;

**29.3.9** Agreements reached in mediation shall be enforceable as settlement agreements in any court having proper jurisdiction; and

**29.3.10** 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.

**29.4** 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 30
## WAIVER OF CONSEQUENTIAL DAMAGES

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

**30.1.1** Damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation and for loss of management or employee productivity or of the services of such persons.

**30.1.2** 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.

**30.2** 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

By: _____
Kelly A. Berard, Administrator

_____
Date Executed

**CONTRACTOR**

_____
(Contractor's Name- Typed)

By: _____
Signature

_____
Printed Name

_____
Title

_____
Date Executed

Corporate Seal
(Optional)

# EXHIBIT A

**OWNER'S PROJECT IDENTIFICATION INFORMATION:**

DPW Project No. 27849, 27850, & 27851
Project Title: Light Construction Service Contract
State Facilities – Southwest (Region II)

**GENERAL PROJECT DESCRIPTION**: Work done under this Service Contract includes miscellaneous small Light Construction projects. These may include but are not limited to, minor demolition and renovations, to include metal and wood stud framing, drywall, taping, texturing, rough carpentry, finish carpentry, masonry, painting, and suspended ceilings. It is required that a minimum of 20% of the work performed will be done with the Contractor's own forces, employed directly by the Contractor. Contractor will commence work under this contract upon electronic approval through the Owner's Web-based Management System and will expeditiously complete the work, and by the date as stipulated in the Owner's Web-based Management System.

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

Addendum No. __ Dated _____
Addendum No. __Dated _____
Addendum No. __Dated _____

Furnish all labor, materials and supplies and provide the service and insurance in accordance with the Contract Documents, within the time set forth therein, and at the prices stated. These prices are to cover all expenses incurred, including business overhead, profit, employee benefits, taxes, trade specific tools and equipment, transportation/vehicles, etc. to perform the Work required under the Contract Documents.

**ESTABLISHED HOURLY RATES FOR LABOR:**
For labor actually performed at the project site, compensation will be as follows:

| | |
|---|---|
| Project Management | $_____per hour |
| Superintendent | $_____per hour |
| Journeyman Labor | $_____per hour |
| General Labor | $_____per hour |

Regular Work Hours are ALL hours worked between 6:00 A.M. and 6:00 P.M., Monday through Friday, to a maximum of forty (40) hours per individual.

Off-hours are from 6:00 P.M. to 6:00 A.M. Monday through Friday, and all hours on Saturday, Sunday and Holidays. If the Owner formally requests for work to be conducted during these hours in addition to regular hours or the Owner formally approves the request, the Contractor may charge Off-hours Rates, not to exceed 125% of established hourly rates.

Overtime Hours are all hours worked over forty (40) hours per person in one week beginning at 12:00 A.M. Monday and ending at 11:59 P.M. Friday. The Contractor is solely responsible for all overtime pay. The Owner will pay only the Established Hourly Rates for all hours charged.

The Contractor shall provide timecards for any work performed.

Contractor agrees that in-house shop time, if applicable, will be billed at the journeyman rate, plus material, plus markup.

**MATERIAL AND SUBCONTRACTOR MARKUP:**
Materials, authorized consumables, specialty equipment, disposal charges and subcontractors will be paid at the Contractor's invoice cost plus the following percentage markup:

Cost plus _____percent.

**TRAVEL COSTS:**
The Contractor will be paid for company vehicle-related travel at the rate established by the Idaho State Board of Examiners and in effect at the time the travel occurred on any project that is more than 50 miles from the Contractor's principal place of business. No out-of-state travel is allowed.

Hourly rates for personnel do not apply during travel and will only apply to on-site construction activities.

Overnight lodging and meal per diem will be allowed for projects that are more than 50 miles from the Contractor's principal place of business. The per diem will be at the rate established by the Idaho State Board of Examiners and in effect at the time the travel.

**TIME FOR PERFORMANCE AND LIQUIDATED DAMAGES:**

A. The Contractor shall commence construction of its scope of the Work in accordance with approvals from the Owner's Web-based Management System.

B. The Contractor shall accomplish Substantial Completion as defined in Article 6 of the Contract within the timeframe indicated in each individual project.

**DRAWINGS AND SPECIFICATIONS**

The Owner shall furnish the Contractor with one set of Drawings and Project Manuals with each approval in the Owner's Web-based Management System.

**SPECIAL CONDITIONS**

In Article 21 and all Paragraphs only, all references to "Owner" shall mean College of Southern Idaho, North Idaho College, College of Eastern Idaho, College of Western Idaho when applicable to projects at these locations.

# EXHIBIT B

## ADDRESSES and AUTHORIZED REPRESENTATIVES:

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

**OWNER:**

State of Idaho
Division of Public Works
502 N. 4th Street
P.O. Box 83720
Boise, ID 83720-0072
Daniel C. Asbury, Deputy Administrator

**CONTRACTOR:**

_____ (company name)
_____ (address)
_____ (city, state, zip)
_____ (telephone and FAX)
Public Works Contractors License No. _____

Officer:

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

Contractor's Project Manager:

_____ (name)
_____ (telephone and FAX)
_____ (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 and FAX)
_____ (E-mail)
May sign for Contractor: Yes [ ] No [ ]
Construction Change Authorizations: up to $_____.00

# EXHIBIT C

## SERVICE CONTRACT SPECIFICATIONS

**General**

The work of this contract is intended to provide the State of Idaho, Division of Public Works (the Owner) with available employees of the Contractor to perform Light Construction services and 24-hour emergency response services at State Facilities. The scope of this contract will include but will not be limited to, minor demolition and renovations, to include metal and wood stud framing, drywall, taping, texturing, rough carpentry, finish carpentry, masonry, painting, and suspended ceilings.

State agencies at locations in the Treasure Valley and areas within the state where the contractor has a physical presence, may use this contract if mutually agreed upon by the Contractor and the Owner. All billings will be processed through the Owner's Web-based Management System.

The buildings covered in this service agreement have been constructed and maintained under applicable code requirements. The Contractor will maintain the integrity of the buildings as it applies to these code requirements.

The Contractor shall be properly licensed and shall have sufficient licensed personnel and equipment to perform the work.

The Contractor will submit a detailed written Not To Exceed cost estimate and schedule of activities including any factors that could affect the cost or schedule, for all work requested by the Owner that exceeds $10,000. The not to exceed cost estimate will be based on this contract labor and material rates and the following:

**Scheduling**

The Contractor shall coordinate all activities that effect building operations with the Owner 48 hours prior to commencing work All work effecting individual agencies will be coordinated in advance by the Contractor with the affected agency.

**Equipment**

All equipment required to perform the work will be provided by the Contractor. State owned equipment will not be used by the Contractor.

Specialty equipment may be paid at invoice cost pls the contracted percentage markup as defined in Exhibit A. Specialty equipment will include, but is not limited to, large scaffold, generators, lifts, excavating equipment, cranes, portable toilets, dumpsters, etc. and/or other specialty equipment, pre-approved by the Owner. Specialty equipment should be included in cost estimates for proposed scopes of work, by project.

**Material and Supplies**

All material and supplies will be provided by the Contractor unless prior arrangements are made with the state. The Owner reserves the right to provide any or all materials and supplies without any percent markup by the Contractor.

**Hours and Manner of Work**

The Contractor will work regular hours unless otherwise requested. Work to be performed off hours and charged at the Off Hour rate must first be formally pre-approved in writing by the Owner and the requesting agency representative. All work that is potentially harmful or disruptive to business will be scheduled with the Owner and requesting agency representative. It is the Contractor's responsibility to identify harmful or disruptive work requirements prior to beginning work.

Regular Work Hours are ALL hours worked between 6:00 A.M. and 6:00 P.M., Monday through Friday, to a maximum of forty (40) hours per individual.

Off-hours are from 6:00 P.M. to 6:00 A.M. Monday through Friday, and all hours on Saturday, Sunday and Holidays. If the Owner requests for work to be conducted during these hours in addition to regular hours, the Contractor may charge Off-hour Rates not to exceed 125% of the established hourly rate.

Overtime Hours are all hours worked above forty (40) hours per person in one week beginning at 12:00 A.M. Monday and ending at 11:59 P.M. Friday. The Contractor is solely responsible for all overtime pay. The Owner will pay only the Established Hourly Rates for all hours charged.

All work shall be accomplished utilizing a minimum of one Journeyman level worker. When conditions warrant, the contractor will utilize Apprentice workers or general laborers before adding additional Journeyman level workers. Exceptions may be allowed, by the Owner, with a written authorization prior to beginning work. A Journeyman level worker means a worker with a minimum of four (4) years' experience in their field of interest, fully aware of all modern techniques and procedures used in the industry. An Apprentice means a worker being supervised by a journeyman level craftsperson. Superintendent shall be provided as noted in Article 10.8.

**Contractors Site Inspection**
The Contractor will be required to visit the proposed work site and adjacent areas affecting the work and familiarize themselves with all existing conditions. The Contractor shall verify locations, sizes, dimensions, obstructions, and the extent of work before submitting all cost estimates. Any cost adjustments after the cost estimate submission will be absorbed and borne by the Contractor. Exceptions include new scope of work or specific items identified by the Contractor on the cost estimate as non-verifiable during the aforementioned work site visit.

**Protective Covering**
All carpet and furnishings shall be protected from dirt, debris, dust, liquids or other substances that are generated by the work. Any cleaning or replacement that is required as a result of the work will be charged back to the Contractor.

**Clean-up Services**
The Contractor will provide continuous clean-up services at all times during construction and service operations. All salvage or waste materials will be removed on a daily basis. All salvageable materials are the property of the Owner. The Owner will make the final decision on disposition of materials.

**Workmanship**
All workmanship shall be in accordance with the highest standards of practice by a qualified worker. All Work shall be accurately formed to shapes, sizes, and dimensions indicated, with all lines and angles in true alignment, straight, plumb, level, and in proper plan. Poor workmanship or improper installation shall be sufficient cause for rejection of the components with replacement at no additional cost to the State.

**Owners Right to Inspect and Require Work**
The Owner reserves the right to make such inspections and tests whenever necessary to ascertain that the requirements of this Contract are being fulfilled. Deficiencies noted shall be promptly corrected at the Contractor's expense. If the Contractor fails to perform the work required by the terms of this agreement in a diligent and satisfactory manner, the Owner may, after ten (10) days written notice to the Contractor, perform or cause to be performed all or any part of the work required hereunder.

The Contractor agrees that it will reimburse the Owner for any expense incurred therefore, and the Owner, at their election, may deduct from the amount any sum owing the contractor. The waiver of the Owner of a breach of any provision of this Contract by the Contractor shall not operate or be construed as a waiver of any subsequent breach by the Contractor. A qualified construction consultant acceptable to both parties may be retained by the Owner to mediate any disputes.

**Contractor to Comply with Laws**
In the performance of this contract, the Contractor agrees he will abide by all existing laws, codes, rules and regulations set forth by all appropriate authorities having jurisdiction in the location where the work is to be performed.

**Permits and Inspection Fees**
State permits and inspection fees shall be paid by the Contractor and invoiced to the Owner at no additional mark-up. Fees for re-inspection due to failure to eliminate deficiencies covered by this maintenance agreement will be paid by the Contractor.

**Employees of Contractor to be Satisfactory**
The contractor agrees that all work shall be performed by and under the supervision of skilled, experience person supervised by the Contractor. Any and all employees perform work under this contract shall be satisfactory to the Owner.

END OF LIGHT CONSTRUCTION SPECIFICATIONS

# EXHIBIT D

## CONTRACTOR'S AFFIDAVIT CONCERNING TAXES

STATE OF _____)

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

_____
City and State

_____
Print name

_____
Signature

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




_____
NOTARY PUBLIC

Residing at: _____

Commission expires: _____

# EXHIBIT E

## NOTICE TO PROCEED

TO CONTRACTOR: DPW NUMBER:

CONTRACT DATE: ARCHITECT:

CONTRACT AMOUNT: $

DATE OF ISSUANCE: OWNER: State of Idaho

---

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

The contract provides for the sum of **$*Dollar Value*** 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 effected 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.

***Name*** has been appointed as Field Representative for this project. Please contact him at **332-**_____ prior to beginning work. A pre-construction meeting will be held ***Date***, at ***Time*** , at ***Location***.

Sincerely,

**KELLY A. BERARD**
ADMINISTRATOR

KB:pb

DISTRIBUTION: Tax Commission
Division of Building Safety
Risk Management (w/ Builder's Risk Application, if applicable)
(Project Manager)
Fiscal Office TAX ID xx-xxxxxx

sample

# EXHIBIT F

## 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 G

## 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 contract number _____ Dated _____ as amended, except as herein stated.

_____
Company Name:

_____
Signature

_____
Date

# EXHIBIT H

## Conditions Precedent to Final Payment with Construction Contracts over $50,000

**Date:**_____

DPW Project No._____

Project Title:_____

Location:_____

**Send to:**

State of Idaho

Division of Public Works

502 N. Fourth Street

Boise, Idaho 83702

**Contractor's Responsibilities:** *This section to be Completed by Contractor*

Per Paragraph 7:13 of the 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 Owner for approval, the following:

- ❒ Contractor's Final Request for Payment Form has been uploaded to the Owners Management System (OMS);
- ❒ Release of Claims form has been uploaded to OMS (DPW's form, Exhibit G);
- ❒ 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 I), 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 & Professional Licenses Letter of Completion/Final Inspection has been uploaded to OMS;
- ❒ Project Finalization and Start Up has been uploaded to OMS (as required, Exhibit J);

_____ _____

Contractor's Signature Date

---

**Owner's Responsibilities:** *This section to be completed by Owner*

- ❒ All Documents Required per Paragraph 7.13 of the 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 Owner/Owner's Representative verification that all items have been completed, has been uploaded to OMS.

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 7.13 of the contract has been received. The entire balance, as shown on the attached Final Request for Payment, is due and payable.

_____ _____

Owner/Owner's Representative Signature Date

# EXHIBIT J

## STATE OF IDAHO
## DIVISION OF PUBLIC WORKS
### Training Confirmation Sign-In Sheet

DPW Project: _____ Agency: _____
Project Name: _____ Project Location: _____
Field Representative: _____ Date & Time:_____

| Name | Company | Telephone | Signature |
|---|---|---|---|
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# EXHIBIT K

## 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.

By signing this document, 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.

_____
Contractor Representative Name

_____ _____
Signature Date

_____
Agency Representative Name

_____ _____
Signature Date