Public Works / Finance Committee

Regular Meeting
~Agenda~

www.ci.moscow.id.us

Laurie M. Hopkins
City Clerk

208.883.7015

Monday, October 28, 2019 **3:00 PM** **Council Chambers**
206 E. Third St.

REGULAR AGENDA

1. **Approval of the October 14, 2019 Public Works / Finance Committee Minutes (ACTION ITEM) - Caylee Birge**

   Minutes presented for approval.

   PROPOSED ACTIONS: Approve minutes, amend minutes, or provide staff further direction.

2. **Professional Service Prequalification Process Resolution (ACTION ITEM) - Bill Belknap**

   The City frequently requires the services of design professionals necessary for the design and construction of a variety of public utility, facility and other public construction projects. Idaho requires that procurement of professional service contracts with design professionals (professional engineers, architects and landscape architects), construction managers and professional land surveyors shall be based upon the qualifications and demonstrated competence of the provider of the required services. As a result, each time the City needed design services, the City historically published project specific requests for qualifications to identify a qualified provider, negotiated an agreement for the professional design services, and then brought it forward to the Council for approval. Idaho Code § 67-2320(2)(h) allows the option for public agencies to create a preapproved list of qualified professional service providers following a published request for qualifications. Once a list has been established, the City can then directly negotiate a professional services agreement with any of those preapproved professionals. Administration has requested that staff formalize the prequalification process through adoption of a Council Resolution which has been prepared for the Council's consideration.

   PROPOSED ACTIONS: Recommend approval of the proposed Resolution; recommend denial of proposed Resolution; or provide staff further direction.

3. **Idaho Department of Environmental Quality Domestic Water System Loan Offer Phase II (ACTION ITEM) - Bill Belknap**

   In 2014, the City sought and received judicial confirmation granting the City the authority to issue revenue bonds, without a public vote, to finance improvements to City's Water System including the reconstruction of six water booster stations, the drilling and development of a new domestic well, and construction of limited piping systems associated with the booster stations and well, to rectify existing fire flow and water production deficiencies within the City's domestic water system. The City has utilized nearly all of the $4.3 million of the initial DEQ loan to fund the improvements that have been completed at this time. The remaining improvements are anticipated to cost an additional $6.8 Million to complete. DEQ has offered to issue an additional $4.3 million loan to the City under the same terms and conditions as the initial loan offer. The City and DEQ would close out the initial loan and the City would begin repayment of that loan in 2020. If the City accepted the phase II funding loan offer, the City would complete Well #10 and the Indian Hills water main in 2020, and construct the two booster stations in 2021.

PROPOSED ACTIONS: Recommend approval of the DEQ Phase II Domestic Water System Improvement Loan Offer and associated Resolution; or provide staff further direction.

4. **Idaho Department of Commerce Opportunity Fund Agreements (ACTION ITEM) – Bill Belknap**

   During EMSI's recent corporate headquarters competitive site selection process, the State of Idaho offered a $350,000 incentive from the State's Opportunity Fund Incentive Program to assist with necessary public infrastructure improvements associated with the project. The program is similar to the Community Development Block Grant Program except the funding is at the discretion of the Director of the Idaho Department of Commerce. Within the Opportunity Fund Program, the funding must be received by a public entity who in turn reimburses the subject company for approved public improvement expenses. This requires two separate agreements: one between the City and State, and one between the City and Company. Staff has prepared the draft Agreements for the Council's review and approval.

   PROPOSED ACTIONS: Recommend approval of the Opportunity Fund Agreements; or provide staff further direction

REPORTS

Recycling Center Update and Program - Tim Davis

Regional Housing Study Workshop Update - Gary J. Riedner

ADJOURN

NOTICE: Moscow City Council and committee meetings are televised, videotaped and/or recorded. Individuals attending the meeting who require special assistance to accommodate physical, hearing, or other impairments, please contact the City Clerk, at (208) 883-7015 or TDD 883-7019, as soon as possible so that arrangements may be made.

Public Works / Finance Committee

	Regular Meeting **~Minutes~**	Laurie M. Hopkins City Clerk
	www.ci.moscow.id.us	208.883.7015

Monday, **October 14, 2019**	**3:00 PM**	**Council Chambers** **206 E. Third St.**

The meeting was called to order at 3:00 p.m.

PRESENT: Art Bettge, Jim Boland, Anne Zabala
OTHER: Mayor Bill Lambert, Darrell Keim
STAFF: Gary J. Riedner, Mia Vowels, Bill Belknap, Sarah Banks, Mike Ray, Jen Pfiffner, Tyler Palmer, Caylee Birge

REGULAR AGENDA

1. **Approval of the September 23, 2019 Public Works / Finance Minutes (ACTION ITEM) - Laurie Hopkins**

   Minutes presented for approval.

   PROPOSED ACTIONS: Approve minutes, amend minutes, or provide staff further direction.

The minutes were approved as presented.

2. **Disbursement Report September 2019 (ACTION ITEM) - Sarah Banks**

   Staff will present the Accounts Payable Report for the month ending September 2019.

   PROPOSED ACTIONS: Sign the Disbursements Report for the month of September, 2019 or take such other action deemed appropriate.

Banks introduced the item as written above. Major expenditures included payroll, a water main replacement, a slurry seal contractual payment, irrigation system installation at Lola Clyde park, design work for the police station, and fourth quarter payment for SMART transit. The Committee signed the report.

3. **Public Meeting: Proposed Lot Division at 933 E. Seventh Street (ACTION ITEM) - Mike Ray**

   The applicants, Mark Warner and Amy Grey, are requesting a lot division for an existing lot of approximately 31,156 square feet in size located at 933 East Seventh Street. The applicants are requesting the lot division in order to create two lots of approximately 19,270 square feet and 11,885 square feet in size. The subject property is located within the Moderate Density, Single Family Residential (R-2) Zoning District where the minimum lot size is 7,000 square feet and the minimum lot width is 60 feet. Both proposed lots will meet the minimum requirements of the R-2 Zone and the existing single family dwelling on the subject property will meet all setback requirements. Per Moscow City Code, property owners within 600 feet of the property have been notified of the proposed division and a sign was posted seven (7) days prior to the public meeting date.

PROPOSED ACTIONS: Take public comment if applicable and recommend approval of the lot division request with no conditions; or recommend approval of the lot division request with conditions; or recommend denial of the lot division request; or provide staff further direction.

Ray introduced the item as written above. Blaine is defined as a collector street and backing out of a driveway is allowed. Discussion ensued regarding the three curb cuts and the possibility of conditions.

Chet Lawton, Moscow, asked if the northern lot could be split again if this division is approved. A separate application would have to be submitted and reviewed to determine whether another division would be allowed.

Amy Grey, applicant, is concerned about the discussion regarding possible conditions for the curb cuts. There are no plans for development of the lot yet but has proposed the division in a way so that it cannot be subdivided again. The Committee recommended approval and that it be placed on the Council consent agenda.

4. Crisis Center Presentation - Gary J. Riedner / Joyce Lyons

Dr. Joyce Lyons, Rural Crisis Response Project Manager will present an overview of the Moscow Crisis Center, which will be opening in a few weeks. The Crisis Center provides 24-hour access to behavioral health crisis intervention services in an out-patient environment. This is expected to help in avoiding the unnecessary incarceration or hospitalization of individuals experiencing a behavioral health crisis. The Center will provide evaluation and risk assessment in a safe and secure environment. Included in services provided are basic medical clearance, crisis therapy, safety planning, case management and links to community and support networks.

PROPOSED ACTIONS: No action required.

Joyce Lyons, Public Health, explained the model for each region in Idaho has been one crisis center in the most populous area. The behavior health board felt that model was not appropriate for Region 2, and suggested many crisis centers throughout the region. Moscow is now funded and can be launched. The crisis center is a 24 hour center classified as an outpatient clinic and is not meant to be a homeless shelter. Because both entities serve similar clients, the crisis center is partnering with the Recovery Center to connect services and potentially provide additional services. Recovery Center staff will triage clients then call Scott's Community Care for risk assessments. Other partners include EMS services, University of Idaho counseling and testing center and Gritman Medical Center which should cut down on additional hospitalizations.

5. Latah Recovery Center Funding Request (ACTION ITEM) – Gary J. Riedner

Darrell Keim, Director of the Latah Recovery Community Center, is requesting financial assistance in the amount of $10,000 to make improvements to the existing Latah Recovery Community Center building in order to better integrate the services of the new Crisis Center, which is located next door. The Latah Recovery Community Center contracts with the Crisis Center to serve as a focus for behavioral health crisis services. The attached letter describes the request and the program. Traditionally, requests such as this have been considered for funding through the Legislative Non-Prioritized Projects line item 101-010-10-670-16, which is funded at the level of $30,000 for FY2020.

PROPOSED ACTIONS: Approve $10,000 support for the Latah Recovery Community Center for one-time facility improvements to be funded through Legislative Non-Prioritized Projects line item 101-010-10-670-16; reject funding request; or provide staff further direction.

Riedner introduced the item as written above. Darrell Keim explained with the crisis center being remodeled, he asked their architect to come up with some ideas to create more private spaces within the recovery center. Riedner said the council previously budgeted monies for a community grant program. Since that time, the Attorney General indicated that public philanthropy is not one of the City's mission which means any request for money needs to be related to what the City does. This project directly impacts the police department and police transports for at-risk citizens. An emergency room hold will tie up an officer for 24 to 72 hours. An at-risk person can voluntarily go to the recovery center without a police escort and avoid the cost of the hospital. Approximately 50% of the emergency department holds should be able to utilize the crisis center. This will positively impact the police budget and keep more officers patrolling the city. The Committee recommended approval and that it be placed on the Council regular agenda.

REPORTS

Idaho Rural Water Association - Apprenticeship Program Agreement - Jen Pfiffner

The National Rural Water Association (NRWA) has developed a Standards of Apprenticeship Program for Water and Wastewater Systems Operations Specialists. The Idaho Rural Water Association (IRWA) has partnered with the NRWA and is administering the program for Idaho. The program is designed to provide a basis for universal training in all phases of the water industry. Guidelines incorporate standards from the U.S. Department of Labor, Office of Apprenticeship. The goal of the program is to provide training and support for individuals working in the water industry, specifically to address the high degree of organizational and personal responsibility that comes with managing the safe delivery of water and wastewater services. Participating organizations have the opportunity to receive financial incentives of up to $2,500 per employee for on-the-job-training wages and other applicable expenses. Participation in the program does not require any changes to the hiring or processing of employees. Individuals enroll in the program as employees working for a participating employer. Additional reporting paperwork outlining the employees progression in the program is required and will be managed by the Public Works & Services Utility Managers and Supervisors for Water and Sewer with the assistance of Human Resources.

PROPOSED ACTIONS: Recommend approval of the Idaho Rural Water Association Standards of Apprenticeship - Employer Participation Agreement, or provide staff further direction

Pfiffner explained this agreement is a more standardized approach to the apprenticeship to journeyman program. The Department of Labor will provide reimbursement for up to $2,500 per employee to help cover training and equipment cost. This portion is only for getting the apprentice to a journeyman, a journeyman to senior would be a separate program and will be reviewed next. Committee recommended the City move forward with the apprenticeship program agreement.

ADJOURN

The meeting was closed at 3:31 p.m.

COMMITTEE STAFF REPORT

DATE: Monday, October 28, 2019

RESPONSIBLE STAFF

Bill Belknap, Community Development Director

ADDITIONAL PRESENTER(S)

OTHER RESOURCES

AGENDA ITEM TITLE

Professional Service Prequalification Process Resolution (ACTION ITEM) - Bill Belknap

DESCRIPTION

The City frequently requires the services of design professionals necessary for the design and construction of a variety of public utility, facility and other public construction projects. Idaho requires that procurement of professional service contracts with design professionals (professional engineers, architects and landscape architects), construction managers and professional land surveyors shall be based upon the qualifications and demonstrated competence of the provider of the required services. As a result, each time the City needed design services, the City historically published project specific requests for qualifications to identify a qualified provider, negotiated an agreement for the professional design services, and then brought it forward to the Council for approval.

Idaho Code § 67-2320(2)(h) allows the option for public agencies to create a preapproved list of qualified professional service providers following a published request for qualifications. Once a list has been established, the City can then directly negotiate a professional services agreement with any of those preapproved professionals.

Due to the number and complexity of projects the City had been managing, in 2017 the Engineering Department developed a Professional Services Roster following the publication of a request for proposals and review of respondent's professional qualifications and experience. Staff advised the Council of the new process and the Council approved individual master services agreements with the prequalified firms which allowed the City to engage in design services on an as-needed basis for projects already approved through the annual budget process. Such engagement was formalized through the issuance of task orders that were then executed by the City Supervisor on behalf of the City.

Recently, the Administration Department has requested that staff formalize the prequalification process through adoption of a Council Resolution. Staff has prepared a draft resolution for the Council to formally establish this process including the re-qualification of the prequalified professional service providers every three years, along with an annual supplemental qualification process for firms or service providers that did not previously participate in the process. The prequalified firms would then enter into master service agreements and the City would request scope and budget task order proposals as needed for projects that are identified and approved within the City's adopted annual budget and/capital improvement plan. After negotiation of the task order to the satisfaction of both parties, the City Supervisor or designee would be authorized to execute the task order on behalf of the City. The City would retain the right to publish a request for qualifications for professional services for any project, or to secure other professional services in accordance with Idaho Code if the City determines that it is in the City's best interest.

STAFF RECOMMENDATION

Recommend approval of the proposed resolution.

PROPOSED ACTIONS

PROPOSED ACTIONS: Recommend approval of the proposed Resolution; recommend denial of proposed Resolution; or provide staff further direction.

FISCAL IMPACT

PERSONNEL IMPACT

ATTACHMENTS

1. Prequalification Design Professionals(pm2)mb;final

RESOLUTION NO. 2019 - ___

A RESOLUTION OF THE CITY OF MOSCOW, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE ESTABLISHMENT OF A PREQUALIFICATION PROCESS FOR THE EFFICIENT AND EFFECTIVE PROCUREMENT OF ENGINEERING AND ARCHITECTURAL DESIGN SERVICES IN ACCORDANCE WITH IDAHO LAW; PROVIDING THIS RESOLUTION TO BE EFFECTIVE UPON ITS PASSAGE, AND APPROVAL.

WHEREAS, the City of Moscow, Latah County, Idaho ("City") is a municipal corporation of the State of Idaho, organized, operating and existing under and pursuant to the provisions of the Constitution and the laws of the State of Idaho; and

WHEREAS, the City frequently requires the services of design professionals necessary for the design and construction of a variety of public utility, facility and other public construction projects; and

WHEREAS, Idaho Code § 67-2320 provides that procurement of professional service contracts with design professionals (professional engineers, architects and landscape architects), construction managers and professional land surveyors, shall be based upon the qualifications and demonstrated competence of the provider for the required services; and

WHEREAS, when the projects for which the professional service fee is anticipated to exceed the total sum of twenty-five thousand dollars ($25,000), Idaho Code § 67-2320(2)(h) and (2)(g) allows public agencies to create a preapproved list of qualified professional service providers following the same publication requirements as required for the bidding of public works construction projects; and

WHEREAS, Idaho Code § 67-2320(2)(h) allows public agencies who have established such preapproved professional service provider list to then select one (1) service provider from the preapproved list without being required to follow any additional publication and notice requirements; and

WHEREAS, the City wishes to formalize a process for the preparation and maintenance of a preapproved list of qualified professional service providers (hereinafter "City's Roster") in accordance with Idaho Code § 67-2320(2) and to document such process herein;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Moscow as follows:

1. Publication of Request for Statements of Qualifications. The City shall publish notice, in accordance with the publication and advertising requirements for the bidding of public works construction projects, requesting Statements of Qualifications from qualified professional service providers. Within such publication, the City shall specify the specific knowledge, skills and abilities the City seeks to secure and provide the basis upon which respondents will be evaluated.

2. Evaluation of Statements of Qualifications and Master Service Agreement. The review of Statements of Qualifications shall be based upon the criteria as contained within the Request

for Qualifications and shall be intended to select the respondents with the best qualifications and demonstrated competence of the provider of the required services. All respondents deemed to be qualified to provide the requested services published within the Request for Qualifications shall be placed upon the City's Roster and may enter into a Master Services Agreement with the City, as approved by the City Council, specifying the terms and conditions of the provision of professional services on an on-demand task order basis to the City.

3. Task Orders. When the City requires professional services, the City at its sole discretion shall select a consultant from the City's Roster and request the consultant to provide a professional services proposal that shall detail the scope of services to be provided and the fee and basis of payment of said services. The City and the selected consultant shall negotiate the scope and cost of the required services and enter into a task order for the requested services as provided for under the Master Services Agreement. Should the City and selected consultant be unable to successfully negotiate the scope and fee for the requested services, the City may select another consultant from the City's Roster and follow the same negotiation process as detailed herein. The City Supervisor or designee shall be authorized to execute Task Orders on behalf of the City for projects that are contemplated and approved by the Council in the annual budget appropriation and/or approved Capital Improvement Plan.

4. Publication Frequency. The City may advertise the Request for Qualifications every three (3) years at which time all firms on the City's Roster, and any new firms wishing to be entered onto the City's Roster, shall be required to resubmit current Statements of Qualifications to be reevaluated in accordance with the evaluation process contained within Section 2 of this Resolution. In addition, the City may publish annually a supplemental Request for Qualifications to allow the opportunity for any firms who did not previously respond to a prior Request for Qualifications to submit their Statement of Qualifications for evaluation by the City. Nothing herein shall prohibit the continuation and completion of any professional services agreement that is executed prior to the publication of the Request for Qualifications.

5. Exclusions. Nothing herein shall prohibit the City from publishing a Request for Qualifications for professional services for any project, or to secure other professional services in accordance with Idaho Code, if the City determines that it is in the City's best interest.

That this Resolution shall become effective as of the 4th day of November, 2019.

PASSED AND APPROVED by the Mayor and City Council of the City of Moscow, Idaho, this 4th day of November, 2019.

____
Bill Lambert, Mayor

ATTEST:

____
Laurie M. Hopkins, City Clerk

COMMITTEE STAFF REPORT

DATE: Monday, October 28, 2019

RESPONSIBLE STAFF

Bill Belknap, Community Development Director

ADDITIONAL PRESENTER(S) | OTHER RESOURCES

AGENDA ITEM TITLE

Idaho Department of Environmental Quality Domestic Water System Loan Offer Phase II (ACTION ITEM) - Bill Belknap

DESCRIPTION

In 2014, the City sought and received judicial confirmation granting the City the authority to issue revenue bonds, without a public vote, to finance improvements to City's Water System including the reconstruction of six water booster stations, the drilling and development of a new domestic well, and construction of limited piping systems associated with the booster stations and well, to rectify existing fire flow and water production deficiencies within the City's domestic water system.

On June 16, 2014, the City Council accepted a loan offer from the Idaho Department of Environmental Quality (DEQ) of $4.3 million for the improvements to be repaid over 20 years at an interest rate of 2.25%. Shortly thereafter, the City commenced with the design and construction of the first three booster stations and the drilling of Well #10. The drilling of Well #10 was completed in December of 2016 and the notice to proceed with construction of the three new booster stations was issued on April 28th of 2017, and all three stations are in the final stages of testing and acceptance.

The remaining elements to complete the domestic water system improvements that were the subject of the 2014 judicial confirmation include the reconstruction of two additional booster stations (one of the six previously identified booster stations is proposed to be eliminated through the consolidation of two high-pressure zones), the final development of Well #10, and the construction of approximately 3,400 feet of water main within the Indian Hills area.

The City has utilized nearly all of the $4.3 million of the initial DEQ loan to fund the improvements that have been completed at this time. The remaining improvements are anticipated to cost an additional $6.8 million to complete. The City currently has approximately $5.3 million in Water Capital Fund balance which is inadequate to fund the remaining improvements and even if the City were to attempt to accumulate the additional funding it would likely take two years and would leave the Water Capital Fund with limited fund balance reserve to address any other system improvement or repair needs.

DEQ has offered to issue an additional $4.3 million loan to the City under the same terms and conditions as the initial loan offer. The City and DEQ would close out the initial loan and the City would begin repayment of that loan in 2020. If the City accepted the phase II funding loan offer, the City would complete Well #10 and the Indian Hills water main in 2020, and construct the two booster stations in 2021. The loan closeout and commencement of repayment of the phase II loan would likely occur in

2022. Accepting the phase II loan will allow the preservation of a projected $2.5 million Water Capital Fund Balance to fund additional system needs.

Staff has prepared a Resolution for the Council's consideration for acceptance of Phase II of the State Revolving Loan Funding to support the completion of the necessary domestic water system improvements. DEQ is in the process of finalizing and securing the DEQ Director's signature upon the loan offer which is expected to be transmitted to the City on Monday, October 28. For reference, staff has included the 2014 loan offer that includes the same terms and conditions that will be included in the Phase II loan offer for the Committee's review.

STAFF RECOMMENDATION

Recommend approval of the DEQ Phase II Domestic Water System Improvement Loan Offer and associated Resolution.

PROPOSED ACTIONS

PROPOSED ACTIONS: Recommend approval of the DEQ Phase II Domestic Water System Improvement Loan Offer and associated Resolution; or provide staff further direction.

FISCAL IMPACT

PERSONNEL IMPACT

ATTACHMENTS

1. Revenue Bonds Resolution IDEQ 2019;(pm1)mb;final
2. 2014 Loan Offer

RESOLUTION NO. 2019 - ____

A RESOLUTION OF THE CITY OF MOSCOW, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR APPROVAL AND ACCEPTANCE OF A LOAN OFFER FROM IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY FOR FINANCING OF CAPITAL IMPROVEMENTS TO THE CITY'S DOMESTIC WATER SYSTEM (PHASE II); PROVIDING THIS RESOLUTION TO BE EFFECTIVE UPON ITS PASSAGE AND APPROVAL.

WHEREAS, the City of Moscow, Latah County, Idaho ("City"), pursuant to Idaho Code § 50-301, is a body corporate and politic duly organized, operating and existing under and pursuant to the provisions of the Constitution and the laws of the State of Idaho; and

WHEREAS, the City Council is authorized and empowered by the Revenue Bond Act, Idaho Code Sections 50-1027 through 50-1042, inclusive, and the Municipal Bond Law of the State of Idaho, being Idaho Code Title 57, Chapter 2, to authorize, issue, sell and deliver revenue bonds to finance the acquisition and construction of improvements and additions to the domestic water system operated by City and serving the residents of the City (the "System"); and

WHEREAS, on April 29, 2014, the District Court of the Second Judicial District of the State of Idaho, in and for the County of Latah, in Case No. CV-2014-81, issued its Judgment (the "Judicial Confirmation") ordering and decreeing, among other things, that City has the authority to issue revenue bonds, without a public vote, to finance improvements to City's System including the reconstruction of six (6) water booster stations, the drilling and development of a new domestic well, and construction of limited piping systems associated with the booster stations and well to rectify existing fire flow and water production deficiencies within the City's domestic water system (the "Project"); and

WHEREAS, City received from the State of Idaho Department of Environmental Quality ("DEQ") that certain Loan Offer, Acceptance and Agreement for Drinking Water Treatment Design and Construction (the "Loan Offer") dated June 12th, 2014, providing for a loan from DEQ to City in the principal amount of up to four million three hundred thousand dollars ($4,300,000), the proceeds of which are to be used by City to finance costs of the Project; and

WHEREAS, on June 16, 2014, City accepted the Loan Offer and authorized the Mayor to execute the Loan Offer, and deliver the same to DEQ together with all required documentation as itemized in the Loan Offer; and

WHEREAS, City commenced construction of the Project, and having completed a portion of the Project, has determined that additional funding is necessary to complete the Project; and

WHEREAS, DEQ has determined that additional funding capacity is available to provide City with an additional four million three hundred thousand dollars ($4,300,000) of funding to allow the completion of the Project; and

WHEREAS, City's bond counsel has reviewed the matter and has concluded that the additional expenses are in accordance with the Judicial Confirmation and are thus "ordinary and necessary" expenses to complete the Project; and

WHEREAS, City received from DEQ that certain Loan Offer, Acceptance and Agreement for Drinking Water Treatment Design and Construction (the "Phase II Loan Offer") dated _________________ and attached hereto as Exhibit "A" providing for a second loan from DEQ to City in the principal amount of up to four million three hundred thousand dollars ($4,300,000), the proceeds of which are to be used by City to finance the remaining costs associated with the Project; and

WHEREAS, City desires to authorize City's officials to take all action necessary or reasonably required to effectuate the Phase II Loan Offer provisions, including, as authorized by the Judicial Confirmation, to approve the substantial form of the bond to be issued to DEQ to evidence the loan in the principal amount up to four million three hundred thousand dollars ($4,300,000) (the "Revenue Bond") in the form attached hereto as Exhibit "B".

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Moscow as follows:

Section 1. Approval of Loan Offer. The form, terms and provisions of the Loan Offer to be entered into, accepted, approved and/or acknowledged, as applicable, by City be, and they are hereby approved and authorized, and the Mayor is hereby authorized to execute and deliver the Loan Offer.

Section 2. Approval of Form of Revenue Bond. The Revenue Bond in substantially the form attached hereto as Exhibit "B" is hereby approved, together with such changes as required at the time City issues the Revenue Bond as shall be consistent with the Loan Offer.

Section 3. Delivery of Documents to DEQ. The officials of City are authorized to deliver to DEQ the executed Loan Offer, together with a copy of this Resolution and form of Revenue Bond, together with all other required documentation required by the Loan Offer.

Section 4. Necessary Actions. The Mayor and other officers and agents of City shall take all actions necessary or reasonably required by the Loan Offer to effectuate its provisions, and, upon completion of the Project, shall take all action necessary or desirable to authorize the issuance of the Revenue Bond to DEQ substantially in the form hereby approved.

That this Resolution shall become effective as of the 4th day of November 2019.

PASSED BY CITY COUNCIL AND APPROVED BY THE MAYOR of the City of Moscow, Idaho, this 4th day of November, 2019.

____
Bill Lambert, Mayor

ATTEST:

____
Laurie M. Hopkins, City Clerk

EXHIBIT "A"

LOAN OFFER

EXHIBIT "B"

SUBSTANTIAL FORM OF REVENUE BOND

2014 Loan Offer Provided as Example. 2019 Loan Offer will Contain the Same Terms and Conditions

STATE OF IDAHO
DEPARTMENT OF ENVIRONMENTAL QUALITY
LOAN OFFER, ACCEPTANCE AND AGREEMENT
FOR DRINKING WATER TREATMENT
DESIGN AND CONSTRUCTION

SECTION I. INTRODUCTION

The State of Idaho (hereinafter "State") is authorized by Idaho Code Title 39, Chapter 36 (hereinafter "Act"), to make loans from the Drinking Water Treatment Facility Loan Account (hereinafter "Account") to assist municipalities in the construction of drinking water treatment facilities. The Idaho Board of Environmental Quality, through the Department of Environmental Quality (hereinafter "Department"), is authorized to administer the Act. The Department has determined that the City of Moscow (hereinafter "City") has established eligibility for a loan under the terms of the Act and IDAPA 58.01.20, the Idaho Rules for Administration of Drinking Water Loan Program (hereinafter "the Rules").

City is a public entity with the authority to finance public improvements. City also has the authority to operate and maintain the public drinking water system located in the City of Moscow and take all necessary actions to ensure that the public drinking water system meets all applicable laws. The Department hereby offers a loan to City according to the terms and conditions contained in this document and the Rules.

SECTION II. DESCRIPTION OF PROJECT

This loan agreement is for design and construction of the following Project:

A.	Loan Project Number:	DW 1406
B.	Name and Address of Borrower:	City of Moscow P O Box 9203 Moscow, Idaho 83843
C.	Project Description:	The Project consists of the construction of a new well, well house, and booster stations, and improving the transmission system.
D.	Terms:	$4,300,000 at 2.25% (interest of 1.25% and loan fee of 1.00%) to be repaid in biannual installments over 20 years.

E. Estimated Project Budget:

1.	Transmission & Distribution	350,000 $ ~~3500,000~~
2.	Booster Stations	1,600,000
3.	Source Development	2,350,000
4.	Total	$ 4,300,000

SECTION III. GENERAL CONDITIONS

This offer may only be accepted by signature by an authorized representative of City. Upon acceptance by City, this offer shall become a loan agreement (hereinafter "Agreement"). By accepting this offer, City agrees to all terms and conditions set forth in this document and the Rules:

City agrees:

A. To not transfer, assign or pledge any beneficial interest in this Agreement to any other person or entity without the prior written consent of the Director of the Department of Environmental Quality (hereinafter "Director"). To not enter into sale, lease or transfer of any of the property related to the Agreement. To not make any additional material encumbrances to the Project without the prior written consent of the Director. To not incur any liabilities that would materially affect the funds pledged to repay this loan without the prior written consent of the Director. To not delegate legal responsibility for complying with the terms, conditions, and obligations of this Agreement without the prior written consent of the Director. Notwithstanding any other provision of this paragraph, City may only sell or otherwise dispose of any of the works, plant, properties and facilities of the Project or any real or personal property comprising a part of the same which shall have become unserviceable, inadequate, obsolete or unfit to be used in the operation of the Project, or no longer necessary, material or useful in such operation, without the prior written consent of the Director.

B. To enter into such contractual arrangements with third parties as it deems advisable to assist it in meeting its responsibilities under this Agreement.

C. To fulfill all declarations, assurances, representations and statements in the application and all other documents, amendments and communications filed with the Department by City in support of the request for this loan. The application is attached hereto and incorporated by reference herein.

D. To comply with applicable State and Federal employment requirements including, but not limited to, Equal Employment Opportunity and Civil Rights requirements.

E. To make efforts to award subagreements to Disadvantaged Business Enterprises (DBE) which includes Minority and Women-owned businesses (MBE/WBE), as follows:

1. The separate fair share goals for DEQ will be in bid solicitations and documentation of efforts to obtain DBE participation will be required of any contractor who fails to attain the goals;

2. Annual reports of DBE utilization will be prepared on forms supplied by the Department; and,

3. Including the following language in all procurement contracts *"The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this Agreement. The contractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this Agreement which may result in the termination of this Agreement or other legally available remedies."*

F. City has provided the Department with documentation evidencing ownership of, and/or the right of access or easements for real property on which the Project is proposed to be constructed. Clear title or legal right to access all real property necessary for the successful operation of the facilities shall be guaranteed by City for the useful life of the Project, prior to commencement of construction. Land acquisitions shall only be reimbursed by Department if obtained from a willing seller.

G. That if, prior to completion of this Agreement, the Project is damaged or destroyed, there will be no reduction in the amounts payable by City to the Department.

H. That in the event there is any default in the payment of either the principal amount, loan fee or the interest due under this Agreement, or any breach by City of any of the terms or conditions of this Agreement, the entire principal amount and whatever interest and fees are due to the date of payment may be declared due and immediately payable. The amount of such default shall bear the same interest and fee rate as applies to the principal of this loan from the date of default until the date of payment by City. All costs incurred by the Department due to such default, including court costs and attorney's fees, shall be repaid by City to the Department.

I. That at any time, any waiver by the Department, of the rights or duties under this Agreement, shall not be deemed a waiver of any subsequent or additional rights or duties under this Agreement.

J. That the use by the Department of any remedy specified in this Agreement for its enforcement is not exclusive and shall not deprive the Department of the right to seek any other appropriate legal or equitable remedy.

K. That this Agreement is binding upon City and the Department, and any person, office or entity succeeding City or the Department.

L. To comply with all applicable federal, state and local laws.

M. In the event any term of this Agreement is held to be invalid or unenforceable by a court, the remaining terms of this Agreement will remain in force.

N. The total loan funds disbursed per this Agreement are considered federal financial assistance per the Single Audit Act of 1984, as amended by the Single Audit Act Amendments of 1996 (SAA), 31 U.S.C. §§7501-7507. (2000). If City expends more than five hundred thousand dollars ($500,000) of any federal funds in a fiscal year, City shall conduct an audit in accordance with the SAA. In such case, City shall provide the Department a copy of the SAA audit within nine (9) months of the end of the audit period per the SAA. City recognizes that it is responsible for determining if the five hundred thousand dollars ($500,000) threshold is reached and if a SAA audit is required. Additionally, City shall inform the Department, in writing, of findings or recommendations pertaining to the State Revolving Fund contained in any SAA audits conducted by City.

O. As per Executive Order 12549, 2 CFR 180 and 2 CFR 1532, the loan recipient agrees to not enter into covered transactions with any contractors or subcontractors that have been suspended or debarred, and to include a similar term or condition in all lower tier covered contracts and transactions.

P. Comply with all federal requirements applicable to the Agreement (including those imposed by the 2014 Appropriations Act (Public Law 113-76, Section 436) and related SRF Policy Guidelines) which includes requirements that all of the iron and steel products used in the Project are to be produced in the United States ("American Iron and Steel Requirement") unless (i) City has requested and obtained a waiver from Department pertaining to the Project; or (ii) Department has otherwise advised City in writing that the American Iron and Steel Requirement is not applicable to the Project.

Q. Comply with all record keeping and reporting requirements under the Safe Drinking Water Act (Section 1452 of Title 14), including any reports required by a Federal agency or department such as information on costs and Project progress.

R. City understands that (i) each contract and subcontract related to the Project is subject to audit by appropriate federal and/or state entities; and (ii) failure to comply with the Safe Drinking Water Act and this Agreement may be a default hereunder that results in a repayment of the loan in advance of the maturity of the Bonds and/or other remedial actions.

SECTION IV. PROJECT MANAGEMENT

City agrees to:

A. Require the prime engineering firm(s) and their principals retained for engineering services to carry professional liability insurance to protect the public from the engineer's negligent acts and errors of omission of a professional nature. The total aggregate of the engineer's professional liability insurance shall be at least one hundred thousand dollars ($100,000) or twice the amount of the engineer's fee, whichever is greater. Professional liability insurance must cover all services rendered for all phases of the Project, whether or not those services are state funded, until the certification of Project performance is accepted by the Department.

B. Comply with the Public Works Contractors License Act and the Public Contracts Bond Act, Title 54, Chapter 19, Idaho Code, including requiring the prime construction contractor retained for construction to carry performance and payment bonds equal to one hundred percent (100%) of the contract price. The bond will be released when the constructed facility is accepted by City.

C. Assure that contracts related to the Project which provide for arbitration allow appeal of any resulting arbitration decision to a district court or allow the arbitration to be non-binding on both parties if either party desires not to use arbitration as a method of dispute settlement.

D. Jointly with an engineering consultant, provide assurances that the physical and operational integrity of the works, when constructed, will achieve the level of treatment provided for in the design specifications.

E. Provide for the accumulation of funds through charges made for services or otherwise, for the purposes of establishing a fund dedicated solely to (i) the repayment of principal, interest and loan fee on this loan; (ii) capital replacement; and (iii) future improvement, betterment, and extension of such works occasioned by increased usage on the facility.

F. Provide a plan and program for an equitable user charge system, as permitted by law, for payment of operation and maintenance of constructed facilities. The user charge system shall be approved by the Department and enacted by City prior to receiving final payment. Make available on an equitable basis the services of the Project to the residents and commercial and industrial establishments of the area it was designed to serve.

G. Develop and adopt a water system protection ordinance approved by the Department prior to receiving final payment of loan funds.

H. Provide to the Department for approval, an operation and maintenance manual for the Project. The manual shall be approved by the Department prior to receiving final payment of loan funds.

I. Provide adequate staffing and qualified operation and maintenance personnel as specified in the operation and maintenance manual approved by the Department.

J. Assure that the operator in responsible charge of the facility has a level of competency commensurate with the nature of the facility. He or she must be licensed as a Drinking Water Operator in a class equal to or greater than that of the facility.

K. Assure that distribution and treatment facility personnel shall participate in operator training programs designed to assure competence in the operation and maintenance of the facility.

L. Commence satisfactory operation and maintenance of the drinking water facility on completion of the Project in accordance with applicable provisions, rules of the Department and any other applicable law, rule or regulation and not discontinue operation or dispose of the facility without the written approval of the Department.

M. Review and update the user charge system, as permitted by law, at least biennially during the life of this Agreement to assure that all costs including debt retirement, operation and maintenance, are offset by sufficient revenues.

N. Maintain Project accounts in accordance with generally accepted accounting principles.

O. All laborers and mechanics employed by the prime construction contractor and subcontractors in the Project using State Revolving Fund (SRF) loans shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality in accordance with the labor standards, including prevailing wage rates and instructions for reporting, as established by the United States Department of Labor (subchapter IV of Chapter 31 of title 40, United States Code). City agrees that all procurement contracts must include as a term and condition that contractors and subcontractors must obtain wage determinations from the Department of Labor and comply with Department of Labor guidance and regulations implementing wage rate requirements applicable to SRF funds. Wage determinations shall be finalized prior to final bid submissions. Specific requirements related to Davis Bacon compliance are included in Chapter 6, Form C, of the DWSRF Loan Handbook, located at http://www.deq.idaho.gov/media/577403-form_6_c.pdf.

SECTION V. SPECIAL CONDITIONS

A. City shall complete the attached Project schedule and submit to the Department for approval on or before sixty (60) days from the date of this loan offer. No funds shall be disbursed per this Agreement until a Project schedule has been approved by the Department. The Department approved Project schedule shall be attached to this Agreement as Attachment "A" and incorporated by reference as if fully set forth herein. City shall complete the Project in accordance with the approved Project schedule.

B. All amendments to the Project schedule must be approved by the Project engineer in the Department's Lewiston Regional Office, prior to becoming effective. No disbursements for the booster station work will be approved until the related environmental information document has been finalized.

C. Prior to final loan distribution, City shall have established a written customer service policy and an operating emergency plan (supported by board adoption). Examples of plans, policies and controls are available from the DEQ state office in Boise.

D. An on-site inspector shall be present during construction.

E. Prior to commencing disbursement of loan funds for construction, a technical memorandum will have been submitted and approved for each item identified as a Green Project Reserve (GPR) component in the Letter of Interest. Each memorandum fully justifies the GPR designation according to the current EPA Guidance for Determining Project Eligibility. The technical memorandum shall be made available as part of the plans and specifications submission. Please review the following URLs for guidance:

1. http://kia.ky.gov/NR/rdonlyres/08C6B5D5-BD95-4DC7-A579-9CAA7AEAA7AB/0/EPA_GPR_Guidance_May2011.pdf

2. http://water.epa.gov/grants_funding/dwsrf/upload/dwsrf_gpr_business_case_examples_508_compliant.pdf

3. http://www.deq.idaho.gov/water-quality/grants-loans/green-project-reserve.aspx

SECTION VI. SECURITY REQUIREMENTS

City agrees:

A. This loan will be evidenced and secured by a promissory note or bond in the amount of four million three hundred thousand dollars ($4,300,000). The promissory note or bond will be issued upon Project completion and incorporated by reference into this Agreement.

B. There will be a reserve fund equal to one (1) year's payment of principal, fees and interest on the loan established. City has ten (10) years to establish the reserve, setting aside ten percent (10%) of one (1) year's payment into the reserve fund each year.

SECTION VII. LOAN DISBURSEMENTS

City agrees:

A. This loan shall be used solely to aid in the financing of City's Project described in Section II.

B. Requests for actual disbursement of loan funds will be made by City using forms provided by the Department. Upon approval of the disbursement request by the Department, loan funds shall be released to City.

C. The costs set forth in Section II have been determined by the Department to be eligible costs for funding. Some of the costs however, have been estimated, and the actual costs may differ from such estimated costs. A Project review by the Department will determine final eligible costs for the Project.

D. If the actual eligible cost of the Project is determined by the Department to be lower than the estimated eligible cost, the loan amount will be reduced accordingly.

E. An increase in the loan amount as a result of an increase in eligible Project costs shall be considered, provided funds are available. Documentation supporting the need for an increase must be submitted to the Department for approval prior to incurring any costs above the eligible cost ceiling.

F. Payment of the final five percent (5%) of this loan shall be withheld until the following requirements are met:

   1. City certifies (1) that the Project has been constructed according to plans and specifications previously approved by the Department; (ii) an operations manual has been completed; and (iii) that the Project is fully operational; and

   2. The Department has inspected the Project and verifies City's certification.

G. Payment of the final ten percent (10%) of this loan shall be withheld until the following requirements are met:

1. The Special Conditions in Section V have been met; and

2. A responsible charge operator (hereinafter "RCO") has been designated who is licensed at or above the classification level of the system. At such times as the RCO is not available, a substitute RCO shall be designated to replace the RCO, who is licensed at or above the classification level of the system.

H. This offer is subject to the existence of the offered sum of money in the Account at the time of payment. Should the offered sum of money not be available in the Account at the time of payment, the Department hereby agrees to pay City the offered sum of money on the basis of City's priority position immediately upon the accrual of said sum in the Account.

SECTION VIII. REPAYMENT TERMS AND SCHEDULE

City agrees:

A. This loan shall be repaid in the manner set forth in the promissory note or bond which shall be attached to this Agreement and incorporated by reference. The payment terms of the promissory note or bond shall be consistent with this Agreement.

B. To pay biannual payments of principal, fees and interest and to fully amortize this loan not later than twenty (20) years from Project completion. Interest will begin accruing with the first disbursement of funds. At the time of closing, accrued interest will be either paid to the Department or incorporated into the final loan amount if the approved amount has not been exceeded.

C. At the time of closing, the Department may elect to impose a loan fee (not to exceed one percent [1%]) pursuant to the Rules. If a loan fee is imposed, the loan interest rate will be reduced by the amount of the loan fee. The loan fee will be assessed against the final loan balance, which shall include the entire principal balance and may include capitalized interest. Any loan fee shall be due and payable concurrently with scheduled loan principal and interest repayments over the repayment period.

D. This Agreement shall remain in full force and effect until all loan proceeds, including principal, interest and loan fee, have been paid in full or the Agreement is otherwise suspended or terminated by the Department.

SECTION IX. SUSPENSION OR TERMINATION OF LOAN AGREEMENT

A. The Director may suspend or terminate this Agreement prior to final disbursement for failure of the loan recipient or its agents, including engineering firm(s), contractor(s), or subcontractor(s) to perform. This Agreement may be suspended or terminated for good cause including, but not limited to, the following:

1. Commission of fraud, embezzlement, theft, forgery, bribery, misrepresentation, conversion, malpractice, misconduct, malfeasance, misfeasance, falsification or unlawful destruction of records, receipt of stolen property, or any form of tortious conduct; or

2. Commission of any crime for which the maximum sentence includes the possibility of one (1) or more years imprisonment, or any crime involving or affecting the Project; or

3. Violation(s) of any term of this Agreement; or

4. Any willful or serious failure to perform within the scope of the Project, plan of operation and Project schedule, terms of engineering subagreements, or contracts for construction; or

5. Utilizing a contractor or subcontractor who has been suspended or debarred by order of any federal or state agency from working on public work projects funded by that agency.

B. The Director will notify City in writing and by certified mail of the intent to suspend or terminate this Agreement. The notice of intent shall state:

1. Specific acts or omissions which form the basis for suspension or termination; and

2. Availability of a contested case hearing before the Board of Environmental Quality conducted as provided for in the Rules of Administrative Procedure Before the Board of Environmental Quality, IDAPA 58.01.23.

C. If City does not initiate a contested case hearing before the Board by filing a petition within the time period specified by the Rules of Administrative Procedure Before the Board of Environmental Quality, IDAPA 58.01.23., the Department may thereafter terminate or suspend the Agreement by written notice to City. If City initiates a contested case, the termination or suspension shall be determined by the Board.

D. City shall perform no work under the Agreement after receiving a notice of intent to suspend or terminate until all administrative proceedings and appeals therefrom are final or the Department reinstates the Agreement as provided herein.

E. Upon written request by City with evidence that the cause(s) for suspension no longer exists, the Director may, if funds are available, reinstate the Agreement. If a suspended Agreement is not reinstated, the loan will be amortized and a repayment schedule prepared in accordance with the provisions of this Agreement.

F. No terminated loan shall be reinstated. Terminated loans will be amortized and a repayment schedule prepared in accordance with the provisions of this Agreement. If the loan is terminated prior to final disbursement, City shall immediately pay back to the Department all disbursed funds and accrued interest.

SECTION X. ACCESS AND INDEMNIFICATION

City agrees to:

A. Provide the Director, or Director's authorized agents, and the U.S. Environmental Protection Agency, access to all files, records, accountings and books relating to the management and accountability of this loan.

B. Indemnify and hold harmless the State of Idaho, its agents and its employees from any and all claims, actions, damages, liabilities and expenses directly or indirectly connected to City or its agents, employees, contractors, or assignees' actions related to the location, design, construction, operation, maintenance, repair, failure or deactivation of the Project or any part of the Project.

SECTION XI. OFFER

The offer set forth herein must be accepted, if at all, on or before June 30, 2014. An acceptance must be accompanied by a resolution of City's governing body authorizing the signator to sign on City's behalf for the purpose of this Agreement.

Dated June 12th, 2014.

Jess Byrne

for Curt A. Fransen, Director
Department of Environmental Quality

SECTION XII. ACCEPTANCE

The City of Moscow, by and through its undersigned representative(s), accepts the foregoing offer and agrees to discharge all obligations and to comply with all terms and conditions contained herein.

City of Moscow, Idaho

____
Bill Lambert, Mayor

ATTEST:

____
Stephanie Kalasz, City Clerk

____
Date

CITY OF MOSCOW PUBLIC WORK June 17, 2014

WELL #10 / BOOSTER STATIONS F

PROJECT/PHASE		gust 2016	September 2016	October 2016	November 2016	December 2016	January 2017	February 2017	March 2017	April 2017
WELL #10 PHASE I - DRILLING										
	SOLICIT STATEMENTS OF QUALIFIC									
	SELECT DESIGN CONSULTANT									
	APPROVE DESIGN CONSULTANT C									
	PROJECT DESIGN									
	ADVERTISE PROJECT									
	OPEN BIDS									
	AWARD CONSTRUCTION CONTRAC									
	COMPLETE CONSTRUCTION									
	PROJECT CLOSEOUT									
WELL #10 PHASE II - SITE DEVELOPMENT/MAI										
	SOLICIT STATEMENTS OF QUALIFIC									
	SELECT DESIGN CONSULTANT									
	APPROVE DESIGN CONSULTANT C									
	COMPLETE PROJECT DESIGN									
	ADVERTISE PROJECT									
	OPEN BIDS									
	AWARD CONSTRUCTION CONTRAC									
	CONSTRUCTION	■	■	■	■					
	INITIAL OPERATION					■				
	PROJECT CLOSEOUT					■	■	■	■	
BOOSTER STATIONS PHASE I - WHITE/TAYLOR,										
	SOLICIT STATEMENTS OF QUALIFIC									
	SELECT DESIGN CONSULTANT									
	APPROVE DESIGN CONSULTANT CC									
	ENVIRONMENTAL ASSESSMENT									
	COMPLETE PROJECT DESIGN									
	ADVERTISE PROJECT									
	OPEN BIDS									
	AWARD CONSTRUCTION CONTRAC									
	CONSTRUCTION									
	INITIAL OPERATION									
	PROJECT CLOSEOUT									
BOOSTER STATIONS PHASE II - PONDEROSA/M										
	LAND ACQUISITION									
	ENVIRONMENTAL ASSESSMENT									
	SOLICIT STATEMENTS OF QUALIFIC									
	SELECT DESIGN CONSULTANT									
	APPROVE DESIGN CONSULTANT CC									
	PROJECT DESIGN									
	ADVERTISE PROJECT									
	OPEN BIDS									
	AWARD CONSTRUCTION CONTRAC									
	CONSTRUCTION	■	■	■	■					
	INITIAL OPERATION					■				
	PROJECT CLOSEOUT					■	■	■	■	
GENERAL										
	USER CHARGE SYSTEM APPROVED									
	WATER SYSTEM PRTOECTION ORDI									
	PLAN OF OPERATION AMENDMENT									
	DRAFT O & M MANUAL				■	■				
	STAFFING PLAN									
	WATER SYSTEM PRTOECTION ORDI									
	FINAL O & M MANUAL							■		
	UPDATE DRINKING WATER CLASS W					■				
	VERIFY APPROPRIATE OPERATOR LI						■			

Wage Rate Requirements Under The Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6)

Preamble

With respect to the Clean Water and Safe Drinking Water State Revolving Funds, EPA provides capitalization grants to each State which in turn provides subgrants or loans to eligible entities within the State. Typically, the subrecipients are municipal or other local governmental entities that manage the funds. For these types of recipients, the provisions set forth under Roman Numeral I, below, shall apply. Although EPA and the State remain responsible for ensuring subrecipients' compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section 3(ii)(A), below and for compliance as described in Section I-5.

Occasionally, the subrecipient may be a private for profit or not for profit entity. For these types of recipients, the provisions set forth in Roman Numeral II, below, shall apply. Although EPA and the State remain responsible for ensuring subrecipients' compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section II-3(ii)(A), below and for compliance as described in Section II-5.

Requirements Under The Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6)
For Subrecipients That Are Governmental Entities:

The following terms and conditions specify how recipients will assist EPA in meeting its Davis-Bacon (DB) responsibilities when DB applies to EPA awards of financial assistance under the FY 2013 Continuing Resolution with respect to State recipients and subrecipients that are governmental entities. If a subrecipient has questions regarding when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact the State recipient. If a State recipient needs guidance, the recipient may contact Idaho DEQ's Tim Wendland at tim.wendland@deq.idaho.gov or at 208-373-0439. The recipient or subrecipient may also obtain additional guidance from U.S. Department of Labor's (DOL) web site at http://www.dol.gov/whd/

1. Applicability of the DB prevailing wage requirements.

Under the FY 2013 Continuing Resolution, DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund and to any construction project carried out in whole or in part by assistance made available by a drinking water treatment revolving loan fund. If a subrecipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the subrecipient must discuss the situation with the recipient State before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Subrecipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

(i) While the solicitation remains open, the subrecipient shall monitor www.wdol.gov weekly to ensure that the wage determination contained in the solicitation remains current. The subrecipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the subrecipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the subrecipient.

(ii) If the subrecipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the subrecipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The subrecipient shall monitor www.wdol.gov on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(b) If the subrecipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the subrecipient shall insert the appropriate DOL wage determination from www.wdol.gov into the ordering instrument.

(c) Subrecipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a subrecipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the subrecipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the subrecipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The subrecipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

3. Contract and Subcontract provisions.

(a) The Recipient shall insure that the subrecipient(s) shall insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the FY 2013 Continuing Resolution, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the DB Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the DB poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Subrecipients may obtain wage determinations from the DOL's web site, www.dol.gov.

(ii)(A) The subrecipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the subrecipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the subrecipient (s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, DOL, Washington, DC 20210 and to the EPA DB

Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the subrecipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the DB Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The subrecipient(s), shall upon written request of the EPA Award Official or an authorized representative of the DOL, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to DB prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the DB Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the DB Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the OL for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage

determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the DOL, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the DOL, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the DOL, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may by appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the DB and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the DOL set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Subrecipient(s), State, EPA, the DOL, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the DB Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the DB Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

4. **Contract Provision for Contracts in Excess of $100,000.**

(a) Contract Work Hours and Safety Standards Act. The subrecipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The subrecipient, upon written request of the EPA Award Official or an authorized representative of the DOL, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this

section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Subrecipient shall insert in any such contract a clause providing hat the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will pennit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The subrecipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The subrecipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Subrecipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB. Subrecipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence."

(c) The subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The subrecipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Subrecipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The subrecipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the DOL or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at http://www.dol.gov/contacts/whd/america2.htm.

Attachment C

Davis Bacon Compliance Requirements for Borrowers

Compliance with this Attachment to the Loan Offer will be monitored as part of the DEQ Project Officer's disbursement approval process, and during interim and final inspections.

1. Request Additional "Trade" Classifications and Wage Rates

If the work classification(s) needed does not appear on a federal wage decision, borrowers will need to request an additional classification and wage rate. It is recommended the process be started early during the preconstruction conference. The borrower and prime contractor for the project should identify the classification needed and recommend a wage rate through the Department of Environmental Quality (DEQ).

Requests can be approved if:

- The work that will be performed by the requested classification is not already performed by another classification that is already on the wage decision. (In other words, if there already is an Electrician classification and wage rate on the wage decision, another Electrician classification and rate cannot be requested.)
- The proposed wage rate, including bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- If the contractor and laborers and mechanics to be employed in the classification (if known), and the borrower agree on the classification and wage rate (including fringe where appropriate).

Requests must be made in writing through the borrower, including a completed Conformance Request SF 1444 Form. The request should identify the work classification that is missing and recommend a wage rate for the classification. Also include any pertinent documents that may be helpful (if requesting paying the state prevailing wage rate, include the state wage decision). Send the packet to DEQ for review and submission to the U.S. Department of Labor (DOL) for approval. DOL's response will be forwarded to the borrower.

If the request is denied, the borrower will be notified what classification and rate should be used. Requesting additional classification does not hold up the payroll process. It may however result in correcting underpayments if DOL is not in agreement with the request.

2. Conduct Payroll Reviews

The Federal Copeland Act requires that workers be paid at least once a week, and without any deductions or rebates except permissible deductions such as payroll taxes, deductions the worker authorizes in writing, or those provided by court order. The Act also requires contractors to maintain payroll records and submit weekly certified payroll and statement of compliance to the borrower certifying wages paid and deductions made. The appropriate wage rates are those determined pursuant to the federal Davis-Bacon related acts by the Federal Department of Labor. Further, if the rate is not shown in the Davis-Bacon related acts, an additional classification must be obtained from the U.S. Department of Labor through DEQ.

- Borrowers must also review payrolls to determine if workers on the construction project have received appropriate rates of overtime compensation. The Contract Work Hours and Safety Act requires that laborers and mechanics receive overtime compensation at a rate of not less than one and one-half times their regular hourly wage after they have worked 40 hours in one week on DWSRF funded projects.

Weekly payroll records must be reviewed by the borrower for the following:

- Payrolls were submitted on time
- Forms were filled out completely including on the initial payroll, the name, identifying number, address, and job classification for each employee.
- All self-employed owners, who have no employees, are designated as an employee and are reported on the certified payroll of the General contractor (or subcontractor if hired by them). Fill out the form the same as for employees and enter "self-employed" and contracting license number where the payroll asks for deductions.
- If the owner of the company has employees and performs work on the project covered by Davis-Bacon wage decisions, the owner is listed as an employee on the certified payroll he submits for his employees. Fill out the form the same as for employees and enter "self-employed, owner or owner/operator".
- The wages and fringes listed on the certified payroll for each job classification agree with those identified on the statement of intent to pay prevailing wages.
- The payrolls include all the classifications being utilized even if not listed on the statement of intent to pay prevailing wages.
- Payrolls only include permissible deductions.
- When fringe benefits are being paid into a benefit plan, block 4(a) on the back of the certified payroll form must be checked.
- Apprentices or trainees listed on the certified payroll are working under approved apprenticeship and training agreements. Copies of those certifications should be included with payrolls.
- The payroll form is signed.

3. Conduct On-Site Reviews

The borrower, or its representative, must provide for visits to the construction site to determine that:

- Wage determinations are posted at the job site.
- Employees are working within the proper job classification.

4. Conduct Employee Interviews

If there is reason to suspect contractor noncompliance: The borrower or its representative (not the prime contractor, or subcontractors) must conduct employee interviews with at least one employee in each trade to determine the following:

- Employees are being paid the amounts/rates stated on the payrolls

- Employees are being properly compensated for overtime hours
- Employees are receiving their full wages and fringe benefits and are not being subjected to coercion or kickback tactics by the contractor or subcontractors.
- Contractors and subcontractors are using and paying apprentices and trainees appropriately.

5. Submit First Week Labor Standards (21 Day Labor Packet)

For each prime and subcontractor performing work on-site during the first week of construction, the borrower must provide a copy of the following documents to the DEQ regional office in charge of day-to-day project oversight, within 21 days after the contractors start construction on the project.

- Certified Payroll for the first week pay period
- Employee interview forms for the first week (if there is a reasonable doubt that any contractor is not fully complying with DB prevailing wages)

The purpose for submitting the above information to DEQ is to assure that any underpayments are detected early and appropriate corrections made early while easy to implement. **The first week labor standards (21 day) packet must be provided to DEQ and any underpayments resolved before DEQ will pay the construction reimbursement request. If underpayments are discovered, DEQ will notify the borrower to work with the prime contractor to have restitution made and a corrected certified payroll submitted to DEQ for approval.**

6. Resolve Overtime Violations

If the prime contractor or subcontractors do not compensate a worker appropriately for overtime, the borrower needs to notify DEQ and work with the prime contractor to resolve the overtime violations.

- If the violation is less than $10 per worker, the violation does not have to be reported.
- If the violation is $10 or more per worker, the prime contractor must make payment or assure payments are made by subcontractors and submit a corrected certified payroll and a copy of the check to the worker, and send it to the borrower. Any time the violation is $10 to $999, the borrower must notify DEQ in writing. If the violation is $1,000 or more, the borrower must submit a Labor Standards Enforcement Report to DEQ who will coordinate the violation with the Department of Labor or EPA (contact DEQ for assistance in filing this report).

7. Resolve Other Underpayments

If a mathematical error, misclassifications, or other error that results in the underpayment of wage or fringe benefits occurs, the prime contractor or subcontractor must make restitution and submit a corrected certified payroll and a copy of the check showing the underpayment made to the worker, to the borrower.

8. Conduct Technical Inspections

During construction, the borrower is responsible for monitoring contractor/subcontractor progress and compliance with technical requirements of the project. Typically, this monitoring process is the responsibility of the consulting project engineer; however, the borrower may wish to designate someone locally with oversight responsibility. The purpose of the technical monitoring process is to ensure that the project is constructed as planned, within budget and estimated timeframes, and within specified quality and quantity standards.

9. Maintain Project Records

The borrower is required to maintain project records that document all financial, monitoring and inspection transactions, and progress reviews that occur during the life of the project. Borrowers must maintain copies of weekly certified payrolls and any corrected certified payrolls, copies of correspondence and resolution of overtime violations, and copies of employee interviews in the project files for the life of the loan as defined by the contract.

IDAHO DRINKING WATER TREATMENT PLANT CLASSIFICATION WORKSHEET

OFFICE USE ONLY DO NOT WRITE HERE
System Class ______
Notes:
____
____
Approved by ______
Date ______________

DEQ will use this information to classify your system.

Public Water Service No. _____

Name of System: _____

System Address: _____

City: _____ State: _____ Zip Code: _____

Contact Person: _____ Title: _____

Business Phone Number: (_____)_____ Email: _____

Instructions: Evaluate each item listed in the table below and place the specified point value next to each item selected. Add the total number of points selected to determine the class of the treatment system. Definitions describing all configurations, names, and/or reasons why rating points are or are not assigned to a particular item are provided for those items with a small D-number behind the item, i.e D-1. Check the definition if unsure whether a particular treatment plant process qualifies for the point value shown. Mail the completed, signed form to your regional Department of Environmental Quality or Health District drinking water contact. Keep a photocopy of the original form for your files.

Item	Points	Your System
System Size (2 to 20 points)		
Maximum Population served, peak day (1 point minimum to 10 point maximum)	1 point/10,000 or part	
Design flow (average/day) or peak month's (average/day) Whichever is larger (1 point min to 10 point max)	1 point/MGD or part	
Water Supply Source (3 to 8 points)		
Groundwater	3 points	
Surface Water	5 points	
Average Raw Water Quality (0 to 10 points)		
Little or no variation	0 points	
Raw water quality (other than turbidity) varies enough to require treatment changes approximately 10% of the time	2 points	
Raw water quality (turbidity) varies severely enough to require pronounced or very frequent treatment changes	5 points	
Raw water quality subject to periodic serious industrial waste pollution	10 points	
Treatment Process		
Aeration	2 points	
Packed tower aeration	6 points	
PH adjustment	4 points	
Stability or corrosion control	4 points	
Taste and odor control	8 points	
Color control	4 points	
Iron or iron/manganese removal	10 points	

Item	Points	Your System
Ion exchange softening	10 points	
Chemical precipitation softening	20 points	
Coagulant addition	4 points	
Flocculation	5 points	
Sedimentation	14 points	
Upflow clarification	14 points	
Filtration	10 points	
Fluoridation	5 points	
Special processes such as reverse osmosis, electrodialysis	15 points	
Disinfection (0 to 10 points) For disinfectants, such as ozone, chlorine dioxide, or chloramines, assign 5 points for chlorination or comparable and 5 points for on-site generation of disinfectant.		
No disinfection	0 points	
Chlorination or comparable	5 points	
On-site generation of disinfectant	5 points	
Sludge/Backwash Water Disposal (0 to 5 points)		
No disposal to raw water source (example to sewer or off watershed)	0 points	
No disposal to raw water source (example supernatant discharge to reservoir)	2 points	
Any disposal to plant raw water	5 points	
Bacteriological/Biological Laboratory Control (0 to 10 points)		
Lab work done outside plant	2 points	
Membrane filter procedures	3 points	
Use of fermentation tubes or any dilution method: fecal coliform determination	7 points	
Biological identification	7 points	
Viral studies or similarly complex work conducted on-site	10 points	
Chemical/Physical Laboratory Control (0 to 10 points)		
Lab work done outside plant	0 points	
Push button or colorimetric methods for simple tests, such as chlorine residual, pH	3 points	
Additional procedures such as titration, jar test, alkalinity, hardness	5 points	
More advanced determinations, such as numerous inorganics	7 points	
Highly sophisticated instrumentations, such as atomic absorption & gas chromatography	10 points	
TOTAL POINTS FOR YOUR SYSTEM		

System Classification Key			
Class I	*30 points or fewer*	*Class III*	*56 to 75 points*
Class II	*31 to 55 points*	*Class IV*	*76 points or greater*

YOUR SYSTEM CLASSIFICATION	**I, II, III, IV (Circle one)**

______________________________ /_______

Signature Date

IDAHO DISTRIBUTION SYSTEM CLASSIFICATION WORKSHEET

OFFICE USE ONLY
DO NOT WRITE HERE
System Class ____________
Notes:

Approved by ____________
Date ____________

DEQ will use this information to classify your system.

PWS System No. _____
(Example: ID1234567)
Name of Public Water System: _____
System Address: _____
City: _____ State: _____ Zip Code: _____
Contact Person: _____ Title: _____
Business Phone Number: (   ) _______ Email: _____
Population served by this distribution system: _____
(The number of people, not the number of connections)
Name of Water Source(s): _____
(Example: Well #16, Johnson Well or East Fork of Miller Creek, etc.)

Signature ______________________ Date ______________

***Please note*: Your PWS may also be a treatment facility* as defined here:**
* **Treatment Facility** - Any place(s) where a public drinking water system or non-transient noncommunity water system alters the physical or chemical characteristics of the drinking water. Chlorination may be considered as a function of a distribution system. (IDAPA 58.01.08.003.74)

If your PWS is also a treatment facility, submit a treatment facility worksheet which can be found at http://www.idahocertificationtraining.com/forms.htm#worksheet3.

Mail the completed, signed form to your regional Department of Environmental Quality or Health District drinking water contact.

Distribution system classification is based on complexity and population served as follows:

Very Small Public Drinking Water System (* see definition below)	
Class I	**1,500 or less**
Class II	**1,501 to 15,000**
Class III	**15,001 to 50,000**
Class IV	**50,001 and greater**

* **Very Small Public Drinking Water System** – A Community or Non-transient Non-community Public Water System that serves five hundred (500) persons or less and has no treatment other than disinfection** or has only treatment which does not require any chemical treatment, process adjustment, backwashing or media regeneration by an operator (e.g. calcium carbonate filters, granular activated carbon filters, cartridge filters, ion exchangers.) (IDAPA 58.01.08.003.79)

** **Disinfection** – Introduction of chlorine or other agent or process approved by the Department of Environmental Quality, in sufficient concentration and for the time required to kill or inactivate pathogenic and indicator organisms. (IDAPA 58.01.08.003.22)

DEQ SRF SPECIFICATION INSERT

AMERICAN IRON AND STEEL (AIS)

GENERAL. In accordance with the current SRF Assistance AIS requirements, all of the iron and steel products used in this project shall be produced in the United States.

This requires that all manufacturing processes, including application of coatings, must take place in the United States, with the exception of metallurgical processes involving refinement of steel additives. The term "all manufacturing processes" includes processes such as melting, refining, forming, casting, rolling, drawing, finishing, fabricating and coating. Further, if a domestic iron and steel product is taken out of the United States for any manufacturing process, it becomes a foreign source material.

The term "iron and steel products" means products made of greater than 50% iron or steel measured by cost; the cost should be based on the material costs of the iron and steel products in the article i.e., a hydrant or a valve. The definition of steel covers carbon steel, alloy steel, stainless steel, tool steel and other specialty steels.

These products include, but are not limited to: lined or unlined pipes and fittings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, construction materials, manhole covers and other municipal castings. Attachment 1 provides further clarification of the terms "construction materials" and "municipal castings" and presents exclusions to AIS requirements.

REQUIRED AIS CONSTRUCTION CONTRACT LANGUAGE. In order to ensure compliance with the AIS requirement, specific AIS contract language must be included in each contract, starting with the assistance agreement, all the way down to the purchase agreements. Attachment 2 contains required language for contracts.

WAIVERS: The statute permits EPA to issue waivers where EPA finds (1) that applying these requirements would be inconsistent with the public interest; (2) iron and steel products are not produced in the US in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron and steel products produced in the US will increase the cost of the overall project by more than 25 percent. Attachment 3 describes the waiver process that EPA has developed to allow projects to proceed in a timely manner. Attachment 4 is an information checklist for a waiver request.

DE MINIMIS WAIVER: Products would be considered eligible for a de minimis waiver if (1) the sum total of the combined products does not exceed five (5) percent of the total cost of materials for the project, (2) the products are not described in the project specification, and (3) any single product does not exceed one (1) percent of the total materials cost of the project.

BIDDER'S CERTIFICATION OF COMPLIANCE. An executed Bidder's Certification of Compliance, Attachment 5, covering all proposed steel and iron products, shall be furnished by bidders as part of the sealed bid; this Certification is required in order to constitute a valid bid.

MATERIAL CERTIFICATES OF COMPLIANCE. Subsequent to the issuance of the Notice of Award, but prior to payment, Certificate(s) of Compliance, Attachment 6, shall be furnished by the Prime Contractor ('the Contractor') to the Owner or Owner's representative for each iron and steel product lot. Records to be submitted and maintained by the Contractor supporting this certification shall include a signed mill test report or a signed certification by each supplier, distributor, fabricator, and manufacturer who has handled the steel or iron product listed, affirming that every process performed on the steel or iron product has taken place in the United States of America. Mill reports and/or signed certifications shall cite a consistent document number such as a purchase order which allows for traceable chain of custody of the product. The lack of the ability of the Contractor to furnish these certifications will be justification for rejection of the product and any related cost increases this may cause will be borne by the Contractor.

ON-SITE DATA RECORDS. The Contractor shall develop and maintain an on-site materials compliance log containing current records of all iron and steel products arriving on the construction site. The log shall include the Purchase Order number, Certificate of Compliance reference number, and minimum product information from the shipping manifest such as product description, serial and lot numbers, manufacturer's name, and origin of shipment including city and state.

In addition, a separate log shall be maintained to track information related to de minimis materials such as Purchase Order number, product description, current value of de minimis materials, and the running percentage of de minimis product value received to the total cost of materials for the project.

MANIFESTS. To ensure information is consistent and valid, the Contractor shall compare the information contained on the manifests accompanying iron and steel products, with previously submitted Certificates of Compliance.

ON-SITE INSPECTIONS. The Owner's representative shall periodically conduct on-site inspections to review the materials compliance logs being maintained by the Contractor to ascertain the completeness of information being recorded. In addition, the Owner's representative shall spot-check stored iron and steel products against the logged information to ensure the consistency and accuracy of the documentation.

PAY APPLICATIONS. The Contractor shall submit to the Owner mill certificates or chain of custody signed certifications as supporting documentation for requests for payment for iron and steel products being added as "Stored this Month" inventory. SRF Loan fund reimbursement for stored materials shall only occur when proper certifications have been received and approved by the Owner or Owner's representative.

RETENTION OF RECORDS. Documentation which fulfills AIS requirements shall be retained by the Owner for a period of at least 3 years subsequent to beginning SRF loan repayment. This documentation is subject to federal audit and shall be readily available upon request.

ATTACHMENT 1.
AMERICAN IRON AND STEEL (AIS) CLARIFICATIONS:
"Construction Materials" & "Municipal Castings"

CONSTRUCTION MATERIALS.

Construction materials are those articles, materials, or supplies made primarily of iron and steel, that are permanently incorporated into the project, not including mechanical and/or electrical components, equipment and systems. Some of these products may overlap with what is also considered "structural steel". This includes, but is not limited to, the following products: wire rod, bar, angles, concrete reinforcing bar, wire, wire cloth, wire rope and cables, tubing, framing, joists, trusses, fasteners (e.g. nuts and bolts), welding rods, decking, grating, railings, stairs, access ramps, fire escapes, ladders, wall panels, dome structures, roofing, ductwork, surface drains, cable hanging systems, manhole steps, fencing and fence tubing, guardrails, doors, and stationary screens. Aluminum, copper, and brass items are not required to meet the AIS requirements.

EXCLUSIONS.

Mechanical and electrical components, equipment and systems are not considered construction materials. Therefore, the following examples are NOT considered construction materials: pumps, motors, gear reducers, drives (including variable frequency drives (VFDs)), electric/pneumatic/manual accessories used to operate valves (such as electric valve actuators), mixers, gates, motorized screens (such as traveling screens), blowers/aeration equipment, compressors, meters, sensors, controls and switches, supervisory control and data acquisition (SCADA), membrane bioreactor systems, membrane filtration systems, filters, clarifiers and clarifier mechanisms, rakes, grinders, disinfection systems, presses (including belt presses), conveyors, cranes, HVAC (excluding ductwork), water heaters, heat exchangers, generators, cabinetry and housings (such as electrical boxes/enclosures), lighting fixtures, electrical conduit, emergency life systems, metal office furniture, shelving, laboratory equipment, analytical instrumentation, and dewatering equipment.

MUNICIPAL CASTINGS.

Municipal castings are cast iron or steel infrastructure products that are melted and cast. They typically provide access, protection, or housing for components incorporated into utility owned drinking water, storm water, wastewater, and surface infrastructure. They are typically made of grey or ductile iron, or steel. Examples of municipal castings are:
Access Hatches; Ballast Screen; Benches (Iron or Steel); Bollards; Cast Bases; Cast Iron Hinged Hatches, Square and Rectangular; Cast Iron Riser Rings; Catch Basin Inlet; Cleanout/Monument Boxes; Construction Covers and Frames; Curb and Corner Guards; Curb Openings; Detectable Warning Plates; Downspout Shoes (Boot, Inlet); Drainage Grates, Frames and Curb Inlets; Inlets; Junction Boxes; Lampposts; Manhole Covers, Rings and Frames, Risers; Meter Boxes; Service Boxes; Steel Hinged Hatches, Square and Rectangular; Steel Riser Rings; Trash receptacles; Tree Grates; Tree Guards; Trench Grates; and Valve Boxes, Covers and Risers.

SRF Spec Insert.

ATTACHMENT 2

REQUIRED CONSTRUCTION CONTRACT LANGUAGE

ALL CONTRACTS MUST HAVE A CLAUSE REQUIRING COMPLIANCE WITH THE AIS REQUIREMENT. THIS IS THE STANDARD BOILERPLATE TO BE INCLUDED IN ALL CONTRACTS IN PROJECTS THAT USE SRF FUNDS:

The Contractor acknowledges to and for the benefit of the City/District of _______________ ("Purchaser") and the Idaho State Department of Environmental Quality (State), that it understands the goods and services under this Agreement are being funded with monies made available by the Clean Water State Revolving Fund and/or Drinking Water State Revolving Fund that have statutory requirements commonly known as "American Iron and Steel;" that requires all of the iron and steel products used in the project to be produced in the United States ("American Iron and Steel Requirement") including iron and steel products provided by the Contactor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Purchaser and the State that (a) the Contractor has reviewed and understands the American Iron and Steel Requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Purchaser or the State. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Purchaser or State to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Purchaser or State resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the State or any damages owed to the State by the Purchaser). While the Contractor has no direct contractual privity with the State, as a lender to the Purchaser for the funding of its project, the Purchaser and the Contractor agree that the State is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the State.

ATTACHMENT 3
WAIVER PROCESS

In order to implement the AIS requirements, EPA has developed an approach to allow for effective and efficient implementation of the waiver process to allow projects to proceed in a timely manner. The framework described below will allow states, on behalf of the assistance recipients, to apply for waivers of the AIS requirement directly to EPA Headquarters. Only waiver requests received from states will be considered. Pursuant to the Act, EPA has the responsibility to make findings as to the issuance of waivers to the AIS requirements.

Definitions

The following terms are critical to the interpretation and implementation of the AIS requirements and apply to the process described in this memorandum:

Reasonably Available Quantity: The quantity of iron or steel products is available or will be available at the time needed and place needed, and in the proper form or specification as specified in the project plans and design.

Satisfactory Quality: The quality of iron or steel products, as specified in the project plans and designs.

Assistance Recipient: A borrower or grantee that receives funding from a state CWSRF or DWSRF program.

Step-By-Step Waiver Process

Application by Assistance Recipient

Each local entity that receives SRF water infrastructure financial assistance is required by section 436 of the Act to use American made iron and steel products in the construction of its project. However, the recipient may request a waiver. Until a waiver is granted by EPA, the AIS requirement stands.

The waiver process begins with the SRF assistance recipient. In order to fulfill the AIS requirement, the assistance recipient must in good faith design the project (where applicable) and solicit bids for construction with American made iron and steel products. It is essential that the assistance recipient include the AIS terms in any request for proposals or solicitations for bids, and in all contracts (see Attachment 2 for required contract language). The assistance recipient may receive a waiver at any point before, during, or after the bid process, if one or more of three conditions is met:

1. Applying the AIS requirements of the Act would be inconsistent with the public interest;
2. Iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
3. Inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

Proper and sufficient documentation must be provided by the assistance recipient. Attachment 4 contains a checklist detailing the types of information required for a waiver to be processed.

Additionally, assistance recipients are required to hold pre-bid conferences with potential bidders. A pre-bid conference can help to identify iron and steel products needed to complete the project as described in the plans and specifications that may not be available from domestic sources. It may also identify the need to seek a waiver prior to bid, and can help inform the recipient on compliance options.

In order to apply for a project waiver, the assistance recipient should email the request in the form of a Word document (.doc) to the State SRF Loan program, designee: Kevin McNeill P.E. at Kevin.McNeill@deq.idaho.gov , phone: (208) 373-0452. The State SRF designee will review the application for the waiver and determine whether the necessary information has been included. Once the waiver application is complete, the State designee will forward the application to the EPA.

Evaluation by EPA

After receiving an application for waiver of the AIS requirements, EPA Headquarters will publish the request on its website for 15 days and receive informal comment. EPA Headquarters will then determine whether the application properly and adequately documents and justifies the statutory basis cited for the waiver – that it is quantitatively and qualitatively sufficient – and to determine whether or not to grant the waiver.

In the event that EPA finds that adequate documentation and justification has been submitted, the Administrator may grant a waiver to the assistance recipient. EPA will notify the State designee that a waiver request has been approved or denied as soon as such a decision has been made. Granting such a waiver is a three-step process:

1. Posting – After receiving an application for a waiver, EPA is required to publish the application and all material submitted with the application on EPA's website for 15 days. During that period, the public will have the opportunity to review the request and provide informal comment to EPA. The website can be found at: http://water.epa.gov/grants_funding/aisrequirement.cfm

2. Evaluation – After receiving an application for waiver of the AIS requirements, EPA Headquarters will determine whether the application properly and adequately documents and justifies the statutory basis cited for the waiver – that it is quantitatively and qualitatively sufficient – and to determine whether or not to grant the waiver.

3. Signature of waiver approval by the Administrator or another agency official with delegated authority – As soon as the waiver is signed and dated, EPA will notify the state SRF program, and post the signed waiver on the EPA website. The assistance recipient should keep a copy of the signed waiver in its project files.

Public Interest Waivers

EPA has the authority to issue public interest waivers. Evaluation of a public interest waiver request may be more complicated than that of other waiver requests so they may take more time than other waiver requests for a decision to be made. An example of a public interest waiver that might be issued could be for a community that has standardized on a particular type or manufacturer of a valve because of its performance to meet their specifications. Switching to an alternative valve may require staff to be trained on the new equipment and additional spare parts would need to be purchased and stocked, existing valves may need to be unnecessarily replaced, and portions of the system may need to be redesigned. Therefore, requiring the community to install an alternative valve would be inconsistent with public interest. EPA also has the authority to issue a public interest waiver that covers categories of products that might apply to all projects.

ATTACHMENT 4
Information Checklist for Waiver Request

The purpose of this checklist is to help ensure that all appropriate and necessary information is submitted to EPA. EPA recommends that States review this checklist carefully and provide all appropriate information to EPA. This checklist is for informational purposes only and does not need to be included as part of a waiver application.

Items	✓	Notes
General • Waiver request includes the following information: — Description of the foreign and domestic construction materials — Unit of measure — Quantity — Price — Time of delivery or availability — Location of the construction project — Name and address of the proposed supplier — A detailed justification for the use of foreign construction materials • Waiver request was submitted according to the instructions in the memorandum • Assistance recipient made a good faith effort to solicit bids for domestic iron and steel products, as demonstrated by language in requests for proposals, contracts, and communications with the prime contractor		
Cost Waiver Requests • Waiver request includes the following information: — Comparison of overall cost of project with domestic iron and steel products to overall cost of project with foreign iron and steel products — Relevant excerpts from the bid documents used by the contractors to complete the comparison — Supporting documentation indicating that the contractor made a reasonable survey of the market, such as a description of the process for identifying suppliers and a list of contacted suppliers		
Availability Waiver Requests • Waiver request includes the following supporting documentation necessary to demonstrate the availability, quantity, and/or quality of the materials for which the waiver is requested: — Supplier information or pricing information from a reasonable number of domestic suppliers indicating availability/delivery date for construction materials — Documentation of the assistance recipient's efforts to find available domestic sources, such as a description of the process for identifying suppliers and a list of contacted suppliers — Project schedule — Relevant excerpts from project plans, specifications, and permits indicating the required quantity and quality of construction materials • Waiver request includes a statement from the prime contractor and/or supplier confirming the non-availability of the domestic construction materials for which the waiver is sought • Has the state received other waiver requests for the materials described in this waiver request, for comparable projects?		

ATTACHMENT 5
BIDDER'S CERTIFICATION OF COMPLIANCE WITH THE CURRENT SRF ASSISTANCE AMERICAN IRON AND STEEL (AIS) PROVISIONS

(To be submitted as part of the sealed bid)

Bidder's Statement of Certification

The Bidder acknowledges to and for the benefit of the ________________________("Owner") for the________________________________ ("Project") that the Bidder understands the project is being funded in part with SRF Assistance. "AIS" requirements specify that all iron and steel products used in the project shall be produced in the United States.

Consistent with the terms of the Owner's bid solicitation and the provisions of SRF Assistance, the Bidder hereby represents and warrants to and for the benefit of the Owner that:

1. **The Bidder has reviewed and understands the AIS requirements.**
2. **The Bidder certifies that the iron and steel goods used in the project will be produced in the United States in a manner that complies with the AIS requirements unless a waiver of the requirements is requested by the Owner and approved by the EPA.**
3. **The Bidder agrees to provide to the Owner reasonable, sufficient, and timely information, certification, or verification of the United States production of each component as detailed in the forms contained in Attachment 6 as a prior condition for approval of - and reimbursement for - materials received.**
4. **The undersigned hereby acknowledges that the iron and steel products utilized in this project will meet the current SRF Assistance AIS requirements, and that all required Manufacturer/Supplier Certification Statements or waivers from EPA will be obtained to document compliance with the AIS requirements.**

Bidder Signature ________________________________ **Date:**________________________

Title:____

Organization:______________________________________

ATTACHMENT 6
MATERIAL CERTIFICATE OF COMPLIANCE
FOR IRON & STEEL PRODUCTS
For Compliance with Current SRF Assistance AMERICAN IRON AND STEEL (AIS) Requirements

(To be submitted subsequent to award of contract)

SRF Project No. **Project Name** ______________________________

The ______________________________
(Name of Manufacturer/Supplier) (Address) (City, State) (Phone)

has furnished to ______________________________
(Name of Contractor) (Address) (City, State) (Phone)

The following materials for use in the construction of the above referenced project.

Bid Item No.	Product Description	Quantity *	Unit (LF, Yd^2, m, m3)	Heat Number / Mill/Fabricator#

* List actual quantities to be delivered to the job site.
\# Provide name of steel producing/recycling mill/ fabricator

Submit all required documentation with this form. Refer to specifications for general guidance on "AIS" documentation.

Contractor's Statement of Certification

I hereby certify that all manufacturing processes, including initial melting/ recycling, occurred in the United States for the materials listed on this page and the following pages and that those materials meet all other requirements as set forth in the plans and specifications.

By ______________________________ Title ______________________________
(Prime Contractor's Name, Typed or Printed)

______________________________ Date ______________________________
(Prime Contractor's Signature)

Number of item pages attached ______

SRF Spec Insert.

ATTACHMENT 6 (cont.)
MATERIAL CERTIFICATE OF COMPLIANCE
FOR AMERICAN IRON & STEEL PRODUCTS

Item Page#____

SRF Project No. __________ **Project Name ____________________________________**

Bid Item No.	Product Description	Quantity *	Unit (LF, Yd^2, m, m3)	Heat Number Mill/Fabricator#

* List actual quantities to be delivered to the job site.
# Provide name of steel producing/recycling mill/ fabricator authenticating domestic material item.

____

(Prime Contractor's Initials)

BEST MANAGEMENT PRACTICES

Current American Iron and Steel (AIS) Provisions

To ensure compliance with the current SRF assistance American Iron and Steel requirements, the following Best Management Practices (BMPs) are required:

1. Pre-Bid Conference: the Owner's Representative shall hold a pre-bid conference with Bidders and shall provide the Owner with a write-up of the conference with a list of Attendees and summary of subjects discussed. At the conference the Owner's Representative shall provide Bidders with comprehensive information relative to AIS requirements, including the following items:
   - Definitions
   - Guidance
   - Fact sheets
   - Web sites
   - Additional clarifications of iron and steel products
   - SRF Loan specification insert requirements
   - Bidder's Certification

2. Pre-Construction Conference: the Owner's Representative shall provide the Contractor(s) with information relative to AIS requirements, emphasizing the following:
   - Suggested AIS Contract Language
   - Waiver process
   - De minimis requirements
   - Contractor Certificates of Compliance
   - Mill Certificates
   - Submittal process (refer to item 3)
   - Purchase orders (refer to item 4)
   - Contractor's on-site logs
   - Pay Applications

3. Contractor Submittals: The Owner or the Owner's representative will consider issuing conditional approval of a submittal for an iron or steel product – or a submittal containing an iron or steel product - with final approval of the submittal dependent on receipt of the mill certificate or signed certification(s).

4. Contractor Purchase Orders: Accordingly, it is advisable for the Contractor to include in Purchase Orders the requirement for a mill certificate or signed Chain of Custody documentation for iron and steel products, with such documentation to be received before the order is finalized.

EXHIBIT B

SUBSTANTIAL FORM OF REVENUE BOND

UNITED STATES OF AMERICA

No. R-1 **Up to $4,300,000**

STATE OF IDAHO
CITY OF MOSCOW, LATAH COUNTY

WATER REVENUE BOND, SERIES ________

INTEREST RATE:	MATURITY DATE:	DATED DATE:	CUSIP NO:
____%	__/__/20__	__/__/20__	N/A

REGISTERED OWNER: **STATE OF IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY, BOISE, IDAHO**

PRINCIPAL AMOUNT: **UP TO FOUR MILLION THREE HUNDRED AND NO/100 DOLLARS**

The City of Moscow, Latah County, Idaho, a body politic and corporate organized and existing under and by virtue of the laws of the State of Idaho (herein called the "City") hereby acknowledges itself to owe and for value received promises to pay, but only from the sources and as hereinafter provided, to the Registered Owner identified above, or registered assigns, the principal sum of up to FOUR MILLION THREE HUNDRED and no/100 Dollars ($4,300,000) pursuant to the State of Idaho Department of Environmental Quality Loan Offer, Acceptance and Agreement for Drinking Water Treatment Design and Construction dated June ___, 2014 (the "Loan Agreement") between the City and the State of Idaho Department of Environmental Quality (the "Lender"), plus interest accruing on the outstanding principal at the rate of two and twenty-five hundredths percent (2.25%) per annum on the basis of a 360-day year and twelve 30-day months. Payments of principal and accrued interest hereon are payable pursuant to Schedule 1 attached hereto, payable semiannually on _________ and _________ of each year, commencing ____________, 20__, based on the outstanding principal under this Water Revenue Bond, Series 20____ (this "Bond"), amortized over twenty (20) years, with the final payment of the outstanding principal and accrued interest thereon due and payable on the Maturity Date above.

The principal and interest payments on this Bond shall be payable in lawful money of the United States of America, to the Registered Owner hereof, at the address of such Registered Owner shown on the registration books of the City. Any Registered Owner of this Bond subsequent to its original Registered Owner is hereby placed on notice of all payments of principal and interest on this Bond prior to its transfer and all subsequent Registered Owners hereof hereby acknowledge that they have ascertained the actual unpaid amount of this Bond as of the date of transfer to them and hereby release the City from all obligations as to all principal and interest paid by the City prior to such date.

The Bond is subject to redemption at par, in whole or in part, on any date prior to the stated Maturity Date.

This Bond is issued for the purpose of financing the cost of certain improvements (the "Project") to the City's domestic water system (the "System"), pursuant to the Revenue Bond Act of the State of Idaho, being Sections 50-1027 to 50-1042, inclusive, Idaho Code, and the Municipal Bond Law of the State of Idaho, being Idaho Code, Title 57, Chapter 2, and as authorized by the judicial confirmation of the Project, and pursuant to the City's Ordinance No. _____ adopted ______________, 20__ (the "Bond Ordinance"). *Capitalized terms used but not otherwise defined herein shall have the meanings as set forth in the Bond Ordinance.*

The Treasurer of the City is acting as the Bond Registrar, authenticating agent and paying agent for this Bond (the "Bond Registrar").

This Bond is payable solely from the special fund of the City defined as the "Bond Fund" under the Bond Ordinance, and the Debt Service Account created thereunder. The City has irrevocably obligated and bound itself to pay into the Bond Fund out of the Revenue of the System or from such other moneys as may be provided therefor certain amounts necessary to pay and secure the payment of the principal and interest on this Bond on parity with all outstanding bonds of the City payable from the Revenue of the System (the "Parity Bonds"). This Bond is not a general obligation of the City. The City hereby covenants and agrees with the owner of this Bond that it will keep and perform all the covenants of this Bond and of the Bond Ordinance to be by it kept and performed, and reference is hereby made to the Bond Ordinance for a complete statement of such covenants.

The City does hereby pledge and bind itself to set aside from the Revenue Fund out of the Revenue of the System and to pay into the Bond Fund and the Debt Service Reserve Account thereunder the various amounts required by the Bond Ordinance and the Loan Agreement to be paid into and maintained in such fund and account, all within the times provided by the Bond Ordinance and Loan Agreement. To the extent more particularly provided by the Bond Ordinance, the amounts so pledged to be paid from the Revenue Fund out of the Revenue of the System into the Bond Fund shall be a lien and prior first charge thereon, equal in rank to the lien and charge of the Parity Bonds, and the amounts required to pay and secure the payment of Additional Bonds (as defined in the Bond Ordinance) of the City hereafter issued on a parity of lien with the Parity Bonds, including this Bond, and superior to all other liens and charges of any kind or nature, except the Operation and Maintenance Expenses of the System.

The pledge of Revenue of the System and other obligations of the City under the Bond Ordinance may be discharged at or prior to the maturity or redemption of this Bond upon the making of provision for the payment thereof on the terms and conditions set forth in the Bond Ordinance.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Ordinance until the Certificate of Authentication hereon shall have been manually signed by the Bond Registrar.

It is hereby certified that all acts, conditions, and things required by the Constitution and statutes of the State of Idaho to exist, to have happened, been done, and performed precedent to and in the issuance of this Bond have happened, been done, and performed.

IN WITNESS WHEREOF, the City of Moscow, Latah County, Idaho, has caused this Bond to be signed with the manual signatures of the Mayor and the City Treasurer, and to be attested by the manual signature of the City Clerk, all as of this ____ day of _______, 20__.

CITY OF MOSCOW, LATAH COUNTY, IDAHO

By: ______________________________
Mayor

By: ______________________________
City Treasurer

ATTEST:

____
Clerk

CERTIFICATE OF AUTHENTICATION

Date of Authentication: ______________________

This Bond is the Water Revenue Bond, Series 20__, of the City of Moscow, Latah County, Idaho, in the principal amount of up to $4,300,000, dated _______, 20__, as described in the within-mentioned Bond Ordinance.

_________________________________,
Registrar

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

Name of Transferee: ____

Address: ____

____

Tax Identification No.: ____

the within Bond and hereby irrevocably constitutes and appoints ______________________
______________________ of ______________________
to transfer said bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: ______________________

____

Registered Owner

NOTE: The signature on this Assignment must correspond with the name of the Registered Owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

SIGNATURE GUARANTEED:

____

NOTICE: Signature(s) must be guaranteed by an "eligible guarantor institution" that is a member of or a participant in a "signature guarantee program" (e.g., the Securities Transfer Agents Medallion Program, the Stock Exchange Medallion Program or the New York Stock Exchange, Inc. Medallion Signature Program).

******

CERTIFICATE OF THE TREASURER OF THE
CITY OF MOSCOW, LATAH COUNTY, IDAHO

STATE OF IDAHO)
) ss.
County of Latah)

I, the undersigned, the duly constituted, legally qualified and acting Treasurer of the City of Moscow, Latah County, Idaho, hereby certify that the within Bond has been registered and recorded in my office pursuant to the provisions of chapter 9, Title 57, Idaho Code, and all acts amendatory thereof and supplementary thereto.

WITNESS my hand this ____ day of ________, 20__.

____
Treasurer

Schedule 1

City of Moscow, Latah County, Idaho
Water Revenue Bond, Series 20___

Payment Schedule

Committee Staff Report

DATE: Monday, October 28, 2019

RESPONSIBLE STAFF

Bill Belknap, Community Development Director, Alisa Anderson, Grants Manager

ADDITIONAL PRESENTER(S)	OTHER RESOURCES

AGENDA ITEM TITLE

Idaho Department of Commerce Opportunity Fund Agreements (ACTION ITEM) – Bill Belknap

DESCRIPTION

During EMSI's recent corporate headquarters competitive site selection process, the State of Idaho offered a $350,000 incentive from the State's Opportunity Fund Incentive Program to assist with necessary public infrastructure improvements associated with the project. The program is similar to the Community Development Block Grant Program except the funding is at the discretion of the Director of the Idaho Department of Commerce. Within the Opportunity Fund Program, the funding must be received by a public entity who in turn reimburses the subject company for approved public improvement expenses. This requires two separate agreements: one between the City and State, and one between the City and Company.

The funding is proposed to be utilized for relocation of the portion of Hogg Creek that crosses the property as well as fund sidewalk improvements around the perimeter of the property including 10-foot-wide sidewalks, street trees and grates, and decorative lighting fixtures. The estimated total cost of the subject public improvements is $715,710. The $350,000 in incentive funding is proposed to be disbursed in four equal installments upon the achievement of four milestones: the completion and acceptance of the Hogg Creek relocation; issuance of building permits and commencement of construction; completion of construction and issuance of certificate of occupancy, and the creation of 27 new jobs by the Company. Since the disbursements are available on a reimbursement basis, the company must expend funds toward the subject improvements, provide supporting documentation of the expenses, and achieve the above milestones before reimbursement would occur. Staff has prepared the required agreements for review and approval by the City Council.

STAFF RECOMMENDATION

Recommend approval of the Opportunity Fund Agreements; or provide staff further direction.

PROPOSED ACTIONS

PROPOSED ACTIONS: Recommend approval of the Opportunity Fund Agreements; or provide staff further direction

FISCAL IMPACT

PERSONNEL IMPACT

ATTACHMENTS

1. Opportunity Fund State Local Agreement with Appendix
2. Opportunity Fund Company Performance Agreement with Appendix

IDAHO OPPORTUNITY FUND

GRANT TERMS AND CONDITIONS – LOCAL GOVERNMENT

This Idaho Opportunity Fund Grant Agreement (Agreement) is between the Idaho Department of Commerce (Department) and the City of Moscow, Idaho (Grantee) located at 206 East Third Street, Moscow, ID, 83843, for the purpose of implementing the Idaho Opportunity Fund (IOF) in partnership with Strada Idaho Holding Corporation (Company) located at 10 West Market Street, Suite 110, Indianapolis, IN, 46204 (Company). The Effective Date of the Agreement is the date of the Department's signature.

1. Background.

The Company proposes to establish and operate a facility that will serve as office space for Emsi employees at 202 West 'A' St., Moscow, Idaho. In connection with the development of the Project, the Company expects to invest at least $17,577,258 in construction costs and to employ at least 127 persons within a period of approximately 3 years. Additionally, the Company also expects that, in conjunction with the Grantee, it will make additional improvements to public infrastructure in the immediate area of the Project to facilitate the construction and operation of the Project. The Project is detailed in Appendix A – Scope of Work and Appendix B – Budget

2. Definitions.

Unless the context requires otherwise, all terms not defined below shall have the meanings defined in IDAPA 28.03.01.

Company: Strada Idaho Holding Corporation (not a for-profit entity) 10 West Market Street, Suite 110, Indianapolis, IN, 46204

Department: Idaho Department of Commerce

Effective Date: The date the Department executes the Agreement

Grantee: The City of Moscow, 206 East Third Street, Moscow, ID, 83843

IOF: Idaho Opportunity Fund

Project: The goods, services, parts, supplies, design, plans, construction of, or expansion of, a facility to support the Company's business.

Public Costs: Those costs as defined in IDAPA 28.03.01.

3. General Conditions.

The Grantee shall adhere to the Idaho Opportunity Fund Grant Administrative Rules IDAPA 28.03.01. Both Parties shall additionally adhere to statutes and regulations of the State of Idaho. Execution of this Agreement by the Grantee serves as an acknowledgement that they are familiar with all statues, rules and regulations and guidelines noted in this paragraph.

4. Grantee Responsibility.

In addition to the terms and conditions set forth herein, the Grantee is responsible for providing local match as detailed in Appendix C – Milestones and Budget, and is responsible to enter into a Company Performance Agreement with the Company. The Company Performance Agreement must include the conditions set forth in Appendix D – Company Performance Agreement Requirements.

5. Period of Performance.

The Project work to be completed hereunder shall begin from the date of signature and shall continue up to and including Project closeout.

6. Grants.

To induce the Company to locate its office facility in Idaho and to achieve the job creation in association with the Project, the Department will make an IOF grant to the Grantee in the amount of $350,000. The local match for the Project is being provided by the Board of Latah County Commissioners through property tax abatement, see attached Appendix E.

In the event that costs exceed the total dollars budgeted for the Project the Company shall be responsible for the cost overruns. The Department will not provide additional IOF grants to pay cost overruns. In addition, IOF grants cannot be shifted to new activities.

7. Allowable Costs.

Allowable Costs are limited to costs of:

a) construction of or improvements to new or existing water, sewer, gas or electric utility systems for new or existing buildings to be used for industrial or commercial operations;

b) flood zone or environmental hazard mitigation;

c) construction, upgrade or renovation of other infrastructure related items including, but not limited to, railroads, broadband, parking lots, roads or other public costs that are directly related to specific job creation or expansion projects.

The Grantee may not request reimbursement of, or withhold, or charge fees of any kind incurred due to the administration of the Agreement or Project.

8. Payment.

The Department will pay the Grantee on a cost reimbursable basis as detailed in Appendix C – Milestones and Payments. The Grantee shall provide the Department with documentation which show the expended costs and payments to contractors. Such documentation shall include vendor invoices, statements, checks and, if applicable, photographs of the work at various stages of completion. If the Department is satisfied with the request, the Department will pay the amount requested within thirty (30) days of the receipt of the request.

The Grantee shall certify that all work that is billed to the Department is complete at the time of billing and that the Grantee has reimbursed their contractors or subcontractors for the work. The Grantee shall be responsible for any discrepancy or error in billing or documentation. There are no Grantee administrative costs permitted under the IOF.

9. Invoicing.

Invoicing shall occur not more often than monthly and at least quarterly. All invoices are to be sent directly to the Department to the Attention of the Grants Officer.

On each request for funds submitted to the Department, the Grantee shall certify the information is true and correct based upon the Grantee's official accounting records. Invoices shall consist of:

- a cover letter from an authorized Grantee representative stating the progress to date and the total amount of Grant funds requested for reimbursement;
- copies of invoices for scope of work completed;
- copies of the Grantee's cancelled check(s) or other verification of payment for work completed; and
- Project photos of work progress to date.

10. Reporting.

The Grantee shall submit a performance report with each request for IOF funds. In the event a request for funds is not made, the Grantee shall still be required to submit a performance report, at least annually, on the one (1) year anniversary of the effective date of the grant, until such time as the grant is closed. The performance report will explain the following:

- percentage of work complete;
- work in progress;
- work remaining;
- problems or unexpected issues that have arisen;
- at risk work; and
- photos of work progress to date
- job creation data

11. Records and Audit Rights.

In the performance of this agreement, the Grantee shall keep books, records, and accounts of all activities related to the provisions of this Agreement. Designated Department officials charged with carrying out this Agreement and having a need to know will have the right, from time to time on reasonable notice at reasonable times and at a reasonable location the Grantee designates, to examine the Grantee's records relating to the Project as may be necessary to verify the Company's compliance with the IOF. Any information the Grantee provides to the Department under this article will be confidential to the extent permitted by law.

12. Relationship of Parties.

The agreeing Parties agree that no employer-employee relationship is established between the Department and the Grantee by the terms of this Agreement. The Grantee further indemnifies the State of Idaho and the Department and holds them harmless against any and all suits, actions, claims or losses of every kind, nature, and description, including costs, expenses, and attorney fees, that may be incurred by reason of any act or omission, neglect or misconduct of the Grantee that may arise out of this Agreement on its performance.

13. Conflict of Interest

No official or employee of the Department or the Grantee shall have any direct or indirect financial interest in the Project.

14. Termination.

The Department is a government entity and this Agreement shall in no way or manner be construed so as to bind or obligate the State of Idaho beyond the term of the Agreement.

For Cause: The Department shall have the right to terminate this Agreement in whole or in part, at any time before the date of completion, whenever it is determined the Grantee has failed to comply with the conditions of the agreement, or funding for the IOF is reduced or eliminated. The Department shall promptly notify the Grantee in writing of the determination and the reasons for the termination and the effective date.

Force Majeure: Neither Party shall be liable or deemed to be in default for any Force Majeure delay in shipment or performance occasioned by unforeseeable causes beyond the control and without the fault or negligence of the Parties, including, but not restricted to, acts of God or the public enemy, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, or unusually severe weather, provided that in all cases the Grantee shall notify the State promptly in writing of any cause for delay and the State concurs that the delay was beyond the control and without the fault or negligence of the Grantee. The period for the performance shall be extended for a period equivalent to the period of the Force Majeure delay. Matters of the Grantee's or Company's finances shall not be a Force Majeure.

15. Disclaimers.

(a) The Grantee acknowledges that the Department has not designed the Project, that the Department has not created any plans or specifications with respect to the Project, and that the Department:

(i) is not a manufacturer of, or dealer in, any of the component parts of the Project or similar facilities;

(ii) has not made any recommendation, given any legal advice or taken any other action with respect to:

(A) the choice of any contractor, supplier, vendor or designer of, or any other contractor, supplier, vendor or designer of, or any other contractor with respect to, the Project or any component part of the Project or any property or rights relating to the Project; or

(B) any action taken or to be taken with respect to the Project or any component part of the Project or any property or rights relating to the Project at any stage of the construction of the Project.

(iii) has not made any warranty or other representation, express or implied, that the Project or any component part of the Project or any property or rights relating to the Project:

(A) will not result in or cause injury or damage to persons or property;

(B) has been or will be properly designed, or will accomplish the results which the Grantee intends; or

(C) is safe in any manner or respect.

EXCEPT AS OTHERWISE PROVIDED IN ANY OTHER WRITTEN AGREEMENT BETWEEN THE DEPARTMENT AND THE GRANTEE, THE DEPARTMENT MAKES NO EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION OF ANY KIND WHATSOEVER WITH RESPECT TO THE PROJECT OR ANY COMPONENT PART OF THE PROJECT, INCLUDING WITH RESPECT TO THE MERCHANTABILITY OR THE FITNESS OR SUITABILITY OF THE PROJECT FOR ANY PURPOSE. THE GRANTEE WAIVES THE BENEFITS OF ALL IMPLIED WARRANTIES AND REPRESENTATIONS OF THE DEPARMENT AS THEY MAY RELATE TO THE FOREGOING.

16. Governing Law.

This Agreement shall be construed in accordance with and governed by the laws of the State of Idaho. Any action to enforce the provisions of this Agreement shall be brought in State district court in Ada County, Boise, Idaho.

17. Severability.

Each provision in this Agreement is severable. If any provision of this Agreement will be determined to be invalid or unenforceable by a Court of competent jurisdiction, then:

(a) such determination will not invalidate or render unenforceable any other provision of this Agreement;

(b) such provision will be construed as closely as possible to the Parties' original intent in order to render such provision valid or enforceable, as applicable; and

(c) the remaining terms of this Agreement, together with such reconstructed provision, will constitute the Parties' entire agreement.

18. Amendments

The Department may amend this Agreement on its own initiative or at the request of the Grantee to reflect changes in the Scope of Work, Design or Budget of the Project. Such changes shall be mutually agreed upon, and evidenced by a written agreement amendment. In no case shall the nature or purpose of the Project be amended from what was generally described in the Scope of Work or Budget. No changes in Scope of Work, costs or services shall be effective until approved in a written agreement amendment signed by both Parties. The Department reserves the right to require review and approval of the Grantee's elected governing body of any Agreement amendments proposed by the Grantee's chief elected official.

19. Notices.

Any notice permitted or required under this Agreement from one Party to the other must be in writing and will be effective (a) on the date it was actually delivered to the addressee if delivered personally, or sent by a nationally recognized courier (such as FedEx or United Parcel Service) or sent by facsimile, or (b) three days after having been deposited in the United States Mail, if sent by certified mail, return receipt requested, in each case to the respective address of the Company and the City listed below, or those other addresses of which either Party gives the other Party written notice:

If to the Department, to
Idaho Department of Commerce
Attn: Thomas F. Kealey
700 W. State St.
Boise, ID 83702

With a copy to
Idaho Department of Commerce
Ewa Szewczyk
700 W. State St.
Boise, ID 83702

If to the Grantee, to
City of Moscow
ATTN: Grants Manager
206 E. Third Street
Moscow, ID 83843

20. Publicity.

Except as required by law, the Grantee will make no public announcement of the Parties' entering into this Agreement or the terms and conditions of this Agreement without the prior written consent of the Department.

21. Entire Agreement.

This Agreement is the entire agreement between the Parties with respect to the subject matter hereof. Where terms and conditions specified in the Contractor's response differ from those specifically stated in this Agreement, the terms and conditions of this Agreement shall apply. In the event of any conflict between these standard terms and conditions and any special terms and conditions applicable to this acquisition, the special terms and conditions will govern. This Agreement may not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the Parties.

The Parties execute this Idaho Opportunity Fund Agreement as of the Effective Date.

Idaho Department of Commerce
Thomas F. Kealey
Director

____

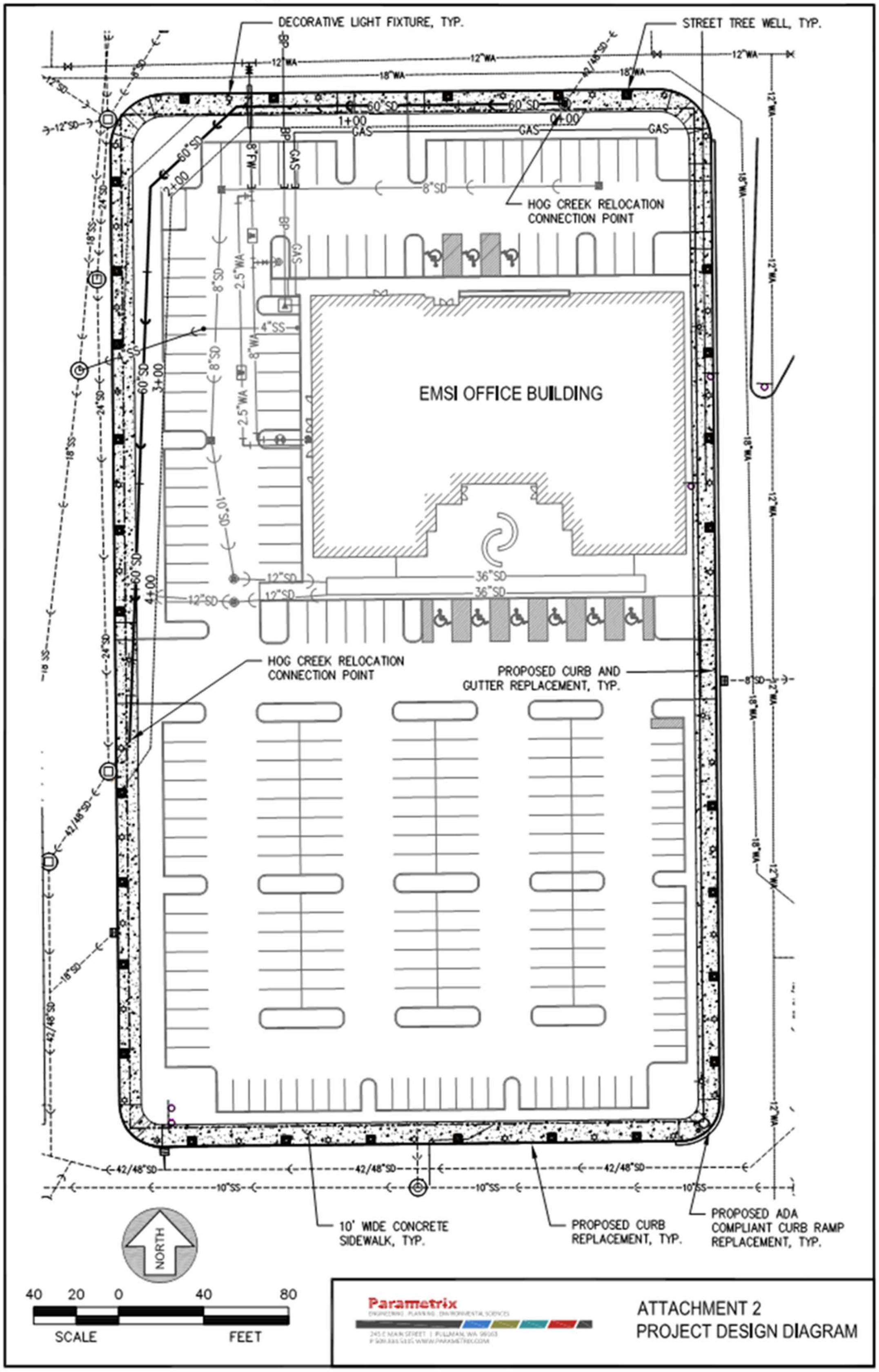
____
Date

City of Moscow
Bill Lambert
Mayor

____

____
Date

Appendix A – Scope of Work



Appendix B – Budget

EMSI Opportunity Fund Public Improvement Cost Estimate				
Item	**Unit**	**Quantity**	**Unit Cost**	**Cost**
Remove Existing Concrete Sidewalk	SF	6,493	$ 3.50	$ 22,725.50
Remove Existing Concrete Curb	LF	1,497	$ 7.00	$ 10,479.00
Street Tree	EA	29	$ 4,250.00	$ 123,250.00
Decorative Light	EA	34	$ 8,000.00	$ 272,000.00
Concrete Curb (including asphalt patch back)	LF	1,497	$ 35.00	$ 52,395.00
Concrete Sidewalk	SF	13,800	$ 6.00	$ 82,800.00
Concrete Driveway	SF	1,100	$ 7.00	$ 7,700.00
ADA Ramp	EA	4	$ 3,250.00	$ 13,000.00
Hog Creek 48" Culvert Realignment	LS	1	$ 131,361.00	$ 131,361.00
			Total Cost	$ 715,710.50

Public Improvement Funding	
Opportunity Fund Contribution	$ 350,000.00
Company Project Funding	$ 365,710.50
Total Funding	$ 715,710.50

Appendix C – Milestones and Payments

Milestone	Milestone Description	Completion Documentation	Projected Completion Date	Milestone Payment Amount
1	Completion and City acceptance of the relocation of the Hogg Creek storm main in accordance with design illustrated in Appendix A	Letter of completion and acceptance from the City of Moscow	November 2019	$87,500
2	Issuance of Construction Permit and Commencement of Construction	Copy of issued Construction Permit and Contractor Mobilization upon site and commencement of construction activities	December 2019	$87,500
3	Completion of Construction and Receipt of Final Certificate of Occupancy	Copy of Final Certificate of Occupancy	November 2020	$87,500
4	Creation of 27 New Full-time Positions with a Minimum Compensation Level of $34,391 Above and Beyond Company's Employment Level of 126 full-time positions as of January 31, 2019	Copy of Payroll Report Documenting the Number of All Full-time Positions and New Positions Created Including Compensation Levels for New Positions Created	April 2020	$87,500

Appendix D – Company Performance Agreement Requirements

The Grantee is required to enter into a Company Performance Agreement (CPA). The Grantee may use their own Economic Development Agreement for this purpose, however the CPA must be provided to Commerce. Each CPA will contain one or more of the following legislative requirements:

(a) A commitment to create or retain a specified number of jobs within a specified salary range at a specific location;
(b) A commitment regarding the time period in which the jobs will be created or retained and the minimum time period for which the jobs must be maintained;
(c) A commitment to complete the construction related to the agreed upon capital expenditures;
(d) A provision that a reasonable percentage of the total amount of the grant be withheld until specified performance targets are met;
(e) A provision that a reasonable percentage of the total amount of the grant be withheld until the specified number of jobs are maintained for a specified period of time;
(f) A commitment to provide proof satisfactory to the Local Government and the Department of new jobs created or existing jobs retained and the salary level of those jobs;
(g) A provision that funds received under the Company Performance Agreement may be used only for a purpose as authorized by the Opportunity Fund;
(h) A provision allowing the Department or the Local Government to inspect the records of the Grantee Business as required to confirm compliance with the Company Performance Agreement or with the requirements of the Opportunity Fund. The provision shall limit the access of the Department and/or Local Government to only those records of the Grantee Business that are necessary to ensure compliance;
(i) A provision establishing the method for determining compliance with the Company Performance Agreement;
(j) A provision establishing a schedule for disbursement of funds under the Company Performance Agreement that allows disbursement of funds only in proportion to the amount of performance completed under the Company Performance Agreement;
(k) A provision requiring repayment of grant funds and corresponding terms for repayment, if applicable, in the event a Grantee Business subsequently fails to comply with the terms of the Company Performance Agreement;
(l) A provision that any repayments of grant funds required if the performance targets are not achieved may be prorated to reflect a partial attainment of job creation or other performance targets; and
(m) Any other lawful provision the Department or the local government finds necessary to ensure the proper use of state or local funds.

Appendix E

BOARD OF COUNTY COMMISSIONERS
LATAH COUNTY, IDAHO
RESOLUTION 2019-10

A RESOLUTION OF LATAH COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, GRANTING STRADA IDAHO HOLDINGS, INC. A PROPERTY TAX EXEMPTION PURSUANT TO IDAHO CODE § 63-602NN.

WHEREAS, the Board of Commissioners of Latah County, State of Idaho is the duly elected governing body of Latah County, a political subdivision of the State of Idaho, having such powers and duties as are set forth in the Constitution and Statutes of the State of Idaho; and

WHEREAS, the Board has considered the application of Strada Idaho Holdings, Inc. ("COMPANY") for a property tax exemption per Idaho Code § 63-602NN in new plant investment at its commercial operation; located on property identified as 202 W. A St., Moscow, Idaho and currently designated by Latah County as parcel numbers RPM0530008015AA, RPM0530008001CA, RPM054000B034AA, RPM054000B040AA, RPM054000B042AA, RPM054000B043BA, and RPM054000C001AA ("Project Site"); and

WHEREAS, Idaho Code § 63-602NN authorizes the Board to exempt from property taxation all or part of the change in the Project Site's Base Value attributable directly to Plant Investment by COMPANY, as those terms are now defined in Idaho Code § 63-602NN(2)(a-d); and

WHEREAS, the Base Value is based on the 2018 assessed value of the existing buildings at the Project Site in the amount of five hundred and five thousand dollars ($505,000); and

WHEREAS, COMPANY has demonstrated a defined project through a written plan and application outlining the proposed project that meets, or will meet, all of the requirements of Idaho Code § 63-602NN, as well as those standards established by Latah County in Latah County Ordinance No. 350 for receiving such exemption; and

WHEREAS, COMPANY proposes to invest approximately seventeen and a half million dollars ($17,500,000) in new Plant Investment at the Project Site during the project period as detailed in COMPANY'S September 19, 2019 Latah County Application for Property Tax Exemption and attachments (attached hereto and incorporated herein as "Exhibit A"); and

WHEREAS, the Board finds that significant economic benefits will accrue to Latah County, and to the affected taxing districts within the County as a result of the proposed project by COMPANY based on, but not limited to, the following factors: The investment comes from a company that pays wages substantially over minimum wage; the Plant Investment will help mitigate urban blight; the proposed construction utilizes green/environmentally friendly building techniques; the Plant Investment will help improve public infrastructure and is occurring in an incorporated city; and the Plant Investment will likely increase the jobs available within Latah County and result in an increase in attracting economic growth; and

WHEREAS, notwithstanding this exemption, the value of the land at the Project Site will continue to remain on the property tax rolls of Latah County and be assessed as such; and

WHEREAS, COMPANY has agreed to the terms and conditions set forth herein; and

WHEREAS, this Resolution constitutes the Agreement between the Parties per Idaho Code § 63-602NN.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Latah County as follows:

1. Pursuant to Idaho Code § 63-602NN, as the terms are defined therein, and subject to the terms and conditions set forth below, the Board hereby agrees to exempt from property taxation, for a term of five (5) years, seventy-five percent (75%) of the increase in Base Value of the Project Site attributable directly to Plant Investment by COMPANY as described in Exhibit A, from January 1, 2021 through December 31, 2025, inclusive.

2. As consideration for the Board granting COMPANY a property tax exemption pursuant to Idaho Code § 63-602NN, COMPANY agrees to abide by the following conditions:

a) COMPANY shall make its Plant Investment substantially as described in Exhibit A, including the creation of at least one hundred and fifty (150) new jobs within Latah County, Idaho that pay wages consistent with or higher than COMPANY's current wages; while maintaining current staffing levels of one hundred and twenty-six (126) Latah County employees.

b) COMPANY shall annually provide to the Latah County Assessor, on or before March 15 of each year, beginning in 2020 and each year thereafter through 2025, a detailed report showing the viability and progress of the project; including the status of the construction, a list of new jobs and hourly or annual rate of pay for each job that has been created during the previous calendar year, and a detailed accounting of the construction costs spent on the Plant Investment in the previous calendar year. COMPANY shall permit the Latah County Assessor to verify the annual report, which may include on-site inspections at the Project Site. COMPANY shall maintain evidence and documentation of all Plant Investment made during the project period for at least ten (10) years from the date this exemption ends on December 31, 2025.

c) COMPANY shall meet all requirements of section 2(a) before December 31, 2024. the event COMPANY fails to meet this requirement, Latah County may unilaterally terminate this Agreement and withdraw the tax exemption.

d) If, by the end of this Agreement, COMPANY has failed to meet the use requirements in the "Tax incentive criteria" for exemption pursuant to Idaho Code § 63-602NN(2)(g)(iii), fails to make the amount of Plant Investment substantially as described in Exhibit A, or has ceased doing business in Latah County, then Latah County may recapture all property taxes from COMPANY that, but for this property tax exemption, would have been due and owing by COMPANY in each year this exemption was given; provided, however, that if COMPANY's failure is only due to not meeting the specific requirement that COMPANY create at least one hundred and fifty (150) new jobs in Latah County, Idaho that pay wages consistent with or higher than COMPANY's current wages, while maintaining current staffing levels, any recapture by Latah County shall be limited to no more than ten percent (10%) of the amount of property taxes exempted under this Agreement.. It is expressly understood by the Parties that, at the time of this Agreement, COMPANY's current staffing level is one hundred and twenty-six (126) employees in Latah County, Idaho. If recaptured, property taxes shall be recovered in substantially the same manner as described in Idaho Code § 63-602G(5)(a)-(d), except that Latah County shall have ten (10) years from December 31, 2025 to begin the assessment and collection of the recapture of such property taxes.

e) COMPANY agrees that the amount of taxes to be recaptured, as set out in Section 2(d) above, may be collected as provided in Idaho Code § 63-1101, unless COMPANY and Board agree to other repayment terms and COMPANY complies with such terms.

f) Per Idaho Code § 63-602NN and IDAPA 35.01.03.631.02.a, it is expressly understood by the Parties that this Agreement does not affect the taxable value of the land at the Project Site.

3. Choice of Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Idaho, with venue for any action brought pursuant to this Agreement to be in the Second Judicial District, State of Idaho.

4. Severability: In the event that any provision of this Agreement is found for any reason to be unenforceable, the remainder of this Agreement shall remain in full force and effect and shall be binding upon the Parties.

5. Survival: All covenants, conditions, indemnifications, and other elements in this Agreement that might involve performance subsequent to any termination or expiration of this Agreement or that cannot be reasonably ascertained or fully performed until after termination or expiration of this Agreement shall survive.

6. Performance/Waiver: The failure of a Party hereto to insist upon strict performance or observance of the terms of this Agreement shall not be a waiver of any breach of any terms or conditions of this Agreement by the other Party.

7. Successors and Assigns: This Agreement may not be assigned in whole or in part by either of the Parties hereto without the prior express written consent of the other Party.

/

8. Authority: Each of the Parties hereto warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power, and authority to enter into and execute this Agreement on such Party's behalf, and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

PASSED AND ENTERED INTO this 16 day of October, 2019

Thomas C. Lamar, Chair

Kathie LaFortune

Kathie LaFortune, Commissioner

ATTEST:

Melody Chapman

Deputy Clerk

David McGraw, Commissioner

AGREED TO BY COMPANY this 10th day of October, 2019.

Strada Idaho Holdings, Inc.

Thomas R. Ertel

Tom Ertel
President

STATE OF Indiana)
) ss.
County of Hamilton)

On this 10th day of October 2019, before me, a Notary Public, personally appeared Tom Ertel, known or identified to me as the President of Strada Idaho Holdings, Inc., and stated he has the authority to execute this instrument on behalf of Strada Idaho Holdings, Inc., and did execute this instrument on behalf of Strada Idaho Holdings.

Notary Public for
Commission Expires

Kimberly Kelley Lucas
Hamilton County Resident
Commission Expires
August 21, 2024

Sign-in Sheet

Board of County Commissioners Meeting with Taxing Districts, Urban Renewal Agencies, and Idaho Department of Commerce regarding Property Tax Exemption Application (I.C. 63-602NN) by Strada Holdings, Inc.

Name (Please Print)	Address	City	State
TIMOTHY VAN DEN BROEK	620 E 3RD St	Moscow	ID
Gina Taruscio	1223 East E	Moscow	ID
Alyssa Hartford	522 S. Adams	Moscow	ID
Henrianne K. Westberg	" "	"	"
BRAD BROENNEKE	1209 WILTSHIRE	Moscow	ID
Rod Wakefield	1080 Paradise Ridge	Moscow	ID

Date: Wednesday, October 16, 2019 Time: 8:15 AM
Place: Latah County Courthouse, Room 2B

CITY OF MOSCOW 1887 IDAHO

Heart of the Arts

Bill Lambert
Mayor

Jim Boland
Council President

Brandy Sullivan
Council Vice-President

Art Bettge
Council Member

Kathryn Bonzo
Council Member

Gina Taruscio
Council Member

Anne Zabala
Council Member

Gary J. Riedner
City Supervisor

City of Moscow, City Hall
c/o Gary J. Riedner, City Supervisor
206 East 3rd Street
P.O. Box 9203
Moscow ID 83843
Phone (208) 883-7000
Fax (208) 883-7018

Website: www.ci.moscow.id.us
Hearing Impaired (208) 883-7019

October 14, 2019

Tom Lamar, Chair
Dave McGraw, Commissioner
Kathie LaFortune, Commissioner
Latah County Commission
P.O. Box 8068
522 S. Adams Street
Moscow, ID 83843

Re: Application for Partial Property Tax Exemption for New Plant Investment by Strada Idaho Holdings, Inc. (Emsi) per Idaho Code §63-602NN

Dear Commissioners:

Thank you for providing notice of the meeting being held on Wednesday, October 16, 2019 at 8:15 a.m. at your chambers to consider the application of Strada Idaho Holdings, Inc. (Emsi) for Partial Property Tax Exemption for New Plant Investment pursuant to the authority granted by Idaho Code §63-602NN.

We have also reviewed the proposed Resolution provided by your legal counsel and are pleased with the proposed property tax exemption contained in that Resolution.

The City is very familiar with the subject property located at 202 West A Street in Moscow. We also recognize Strada Idaho Holdings, Inc. (Emsi) for their quality business here in Moscow, and are pleased to support their proposal to re-locate and expand that business in our City and County, which will provide a broader economic base and additional job opportunities to members of our community.

Consistent with the efforts of the City and County in supporting economic development initiatives which benefit our community, this is an opportunity to leverage the limited incentives we have at our disposal to encourage business expansion. Similar to support of the Moscow Urban Renewal Agency's efforts to aid in economic development in our city and county, we are likewise supportive of your consideration of granting Strada Idaho Holdings, Inc. (Emsi) this temporary property tax relief in order to encourage business investment in our community.

Please feel free to contact me if you have any questions, or if I can provide further information.

Thank you.

Bill Lambert

Bill Lambert
Mayor

PARTNERSHIP
for
ECONOMIC
PROSPERITY
PO BOX 9464 • 1006 RAILROAD STREET • MOSCOW, ID 83843

October 16, 2019

To: The Honorable Latah County Commissioners

Re: Strada Idaho Holdings, Inc. request for temporary partial property tax exemption

Commissioners Lamar, McGraw and LaFortune,

The Partnership for Economic Prosperity Board of Directors enthusiastically supports the application of Strada Idaho Holdings, Inc. for temporary partial tax exemption for the expansion of their Economic Modeling Specialists, Incorporated campus in Moscow.

Not only does this exemption retain a strong local business, it is also bringing 327 new jobs to Latah county, and the $21M project investment in this location will also act as a significant catalyst for further and additional private investment and community improvement within the surrounding area.

We believe that this impact makes a solid business case and encourage you to move ahead with this worthy project.

Sincerely,

Gina Taruscio, MPA, Executive Director
The Partnership For Economic Prosperity, Inc.

IDAHO OPPORTUNITY FUND FY2019

GRANT TERMS AND CONDITIONS – GRANTEE & COMPANY

This Idaho Opportunity Fund Grant Agreement (Agreement) is between the City of Moscow, Idaho (Grantee) located at 206 East Third Street, Moscow, ID, 83843, and Strada Idaho Holding Corporation (Company) located at 10 West Market Street, Suite 110, Indianapolis, IN, 46204, for the purpose of implementing the Idaho Opportunity Fund (IOF). The Effective Date of the Agreement is the date of the Grantee's signature.

1. Background.

The Company proposes to establish and operate a facility that will serve as office space for Emsi employees at 202 West 'A' St., Moscow, Idaho. In connection with the development of the Project, the Company expects to invest at least $17,577,258 in construction costs and to employ at least 127 persons within a period of approximately 3 years. Additionally, the Company also expects that, in conjunction with the Grantee, it will make additional improvements to public infrastructure in the immediate area of the Project to facilitate the construction and operation of the Project. The Project is detailed in Appendix A – Scope of Work and Appendix B - Budget.

2. Definitions.

Unless the context requires otherwise, all terms not defined below shall have the meanings defined in IDAPA 28.03.01.

Agreement:

Company: Strada Idaho Holding Corporation (not a for-profit entity) 10 West Market Street, Suite 110, Indianapolis, IN, 46204

Department: Idaho Department of Commerce

Effective Date: The date the Department executes the Agreement

Grantee: The City of Moscow, 206 East Third Street, Moscow, ID, 83843

IOF: Idaho Opportunity Fund

Project: The goods, services, parts, supplies, design, plans, construction of, or expansion of, a facility to support the Company's business.

Public Costs: Those costs as defined in IDAPA 28.03.01.

3. General Conditions.

The Grantee shall adhere to the Idaho Opportunity Fund Grant Administrative Rules IDAPA 28.03.01. Both Parties shall additionally adhere to statutes and regulations of the State of Idaho. Execution of this Agreement by the Grantee serves as an acknowledgement that they are familiar with all statues, rules and regulations and guidelines required by the State of Idaho.

4. Grantee Responsibility.

In addition to the terms and conditions set forth herein, the Grantee is responsible for providing and/or securing local match as detailed in Appendix C – Milestones and Budget, and is responsible to enter into a Company Performance Agreement with the Company.

5. Company Responsibility.

In addition to the terms and conditions set forth herein, the Company is responsible for project management of the Project, providing and/or securing additional capital as necessary to complete the Project, meeting the performance measures detailed in Appendix C – Milestones and Payments, in addition to the following:

a. commitment to create 27 new jobs within three (3) years;
b. commitment to provide proof satisfactory to the Grantee and the Department of Commerce of the new jobs created and the salary level of those jobs;
c. commitment to complete the construction related to the agreed upon capital expenditures;

6. Period of Performance.

The Project work to be completed hereunder shall begin from the date of Project commencement and shall continue up to and including Project closeout.

7. Grant.

To induce the Company to locate its office facility in Idaho and to achieve the job creation in association with the Project, the Department will make an IOF grant to the Grantee in the amount of $350,000. The local match for the Project is being provided by the Board of Latah County Commissioners through property tax abatement, see attached Appendix D.

In the event that costs exceed the total dollars budgeted for the Project, the Company shall be responsible for the cost overruns. The Department will not provide additional IOF grants to pay cost overruns. In addition IOF grants cannot be shifted to new activities.

8. Allowable Costs.

Allowable costs are any Public Costs required to complete the Project. The Company may not request reimbursement or withhold or charge fees of any kind incurred due to the administration of the Agreement or Project.

Public Costs for this Agreement are limited to the construction expenses related to the following public improvements as described below and as shown within Appendix A:

a) The design, construction, and surface restoration related to the construction of a new stormwater main and associated fixtures to facilitate the relocation of the existing 42-inch Hogg Creek stormwater main currently located on the subject property.

b) The demolition and construction of new sidewalk improvements along the street frontages of the subject property including the installation of sidewalk, curbing, pedestrian ramps, vehicular driveways, street trees, street lighting and other similar public improvements located within the adjacent public right-of-way or additional public easements as may be required.

9. Payment.

The Grantee will pay the Company on a cost reimbursable basis as detailed in Appendix C – Milestones and Payments. The Company shall provide the Grantee with acceptable documentation which includes invoices, statements and proof of payment to vendors, and photographs of the work at various stages of completion. If the Grantee is satisfied with the request, the Grantee will pay the amount requested within forty-five (45) days of the receipt of the request.

The Company shall certify that all work that is billed to the Grantee is complete at the time of billing and that the Company has reimbursed their subcontractors and vendors for the work performed. The Company shall be responsible for any discrepancy or error in billing or documentation. There are no Grantee or Company administrative costs permitted under the IOF.

10. Invoicing.

Invoicing shall occur in accordance with achieved milestones as detailed in Appendix C – Milestones and Budget. All invoices are to be sent directly to the Grantee to the Attention of the City Grants Manager.

On each request for funds submitted to the Grantee, the Company shall certify the information is true and correct based upon the Company's official accounting records. Invoices shall consist of:

- a cover letter from an authorized Company representative stating the progress to date and the total amount of Grant funds requested for reimbursement;
- copies of invoices for scope of work completed;
- copies of the Company's cancelled check(s) or other verification of payment for work completed;
- verification of job creation; and
- Project photos of work progress to date.

11. Reporting.

The Company shall submit a performance report with each request for IOF funding. In the event a request for funds is not made, the Company shall still submit a performance report, at least annually, on the one (1) year anniversary of the effective date of the grant. The performance report will explain the following:

- percentage of work complete;
- work in progress;
- work remaining;
- problems or unexpected issues that have arisen;
- at risk work; and
- photos of work progress to date.

12. Records and Audit Rights.

In the performance of this Agreement, the Company shall keep books, records, and accounts of all activities related to the provisions of this Agreement. Designated Grantee officials charged with carrying out this Agreement and having a need to know will have the right, from time to time, on reasonable notice at reasonable times and at a reasonable location the Company designates, to examine the Company's records which specifically relate to the Project as may be necessary to verify the Company's compliance with the IOF. Any information the Company provides to the Grantee under this article will be confidential to the extent permitted by law.

13. Relationship of Parties.

The Parties agree that no employer-employee relationship is established between the Grantee and the Company by the terms of this Agreement. The Company further indemnifies the State of Idaho and the Grantee and holds them harmless against any and all suits, actions, claims or losses of every kind, nature, and description, including costs, expenses, and attorney fees, that may be incurred by reason of any act or omission, neglect or misconduct of the Company that may arise out of this Agreement on its performance.

14. Conflict of Interest

No official or employee of the Company, the Grantee, or the Department shall have any direct or indirect financial interest in the Project.

15. Termination for Cause.

The Department shall have the right to terminate this Agreement in whole or in part, at any time before the date of completion, whenever it is determined the Company or Grantee has failed to comply with the conditions of the Agreement, or funding for the IOF is reduced or eliminated. The Department shall promptly notify the Grantee and Company in writing of the determination and the reasons for the termination and the effective date.

16. Force Majeure.

Neither Party shall be liable or deemed to be in default for any Force Majeure delay in performance occasioned by unforeseeable causes beyond the control and without the fault or negligence of the Parties, including, but not restricted to, acts of God or the public enemy, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, or unusually severe weather, provided that in all cases the Company shall notify the Grantee and Department promptly in writing of any cause for delay and the Grantee and Department concurs that the delay was beyond the control and without the fault or negligence of the Company. The period for the performance shall be extended for a period equivalent to the period of the Force Majeure delay. Matters of the Grantee's or Company's finances shall not be a Force Majeure.

17. Disclaimers.

(a) The Company acknowledges that the Grantee and Department have not designed the Project, that the Grantee and Department have not created any plans or specifications with respect to the Project, and that the Grantee and Department:

(i) are not a manufacturer of, or dealer in, any of the component parts of the Project or similar facilities;

(ii) have not made any recommendation, given any legal advice or taken any other action with respect to:

(A) the choice of any company, supplier, vendor or designer of, or any other company, supplier, vendor or designer of, or any other company with respect to, the Project or any component part of the Project or any property or rights relating to the Project; or

(B) any action taken or to be taken with respect to the Project or any component part of the Project or any property or rights relating to the Project at any stage of the construction of the Project.

(iii) has not made any warranty or other representation, express or implied, that the Project or any component part of the Project or any property or rights relating to the Project:

(A) will not result in or cause injury or damage to persons or property;

(B) has been or will be properly designed, or will accomplish the results which the Grantee intends; or

(C) is safe in any manner or respect.

EXCEPT AS OTHERWISE PROVIDED IN ANY OTHER WRITTEN AGREEMENT BETWEEN THE GRANTEE AND THE COMPANY, THE GRANTEE MAKES NO EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION OF ANY KIND WHATSOEVER WITH RESPECT TO THE PROJECT OR ANY COMPONENT PART OF THE PROJECT, INCLUDING WITH RESPECT TO THE MERCHANTABILITY OR THE FITNESS OR SUITABILITY OF THE PROJECT FOR ANY PURPOSE. THE COMPANY WAIVES THE BENEFITS OF ALL IMPLIED WARRANTIES AND REPRESENTATIONS OF THE DEPARTMENT AS THEY MAY RELATE TO THE FOREGOING.

18. Governing Law.

This Agreement shall be construed in accordance with and governed by the laws of the State of Idaho. Any action to enforce the provisions of this Agreement shall be brought in State district court in Ada County, Boise, Idaho.

19. Severability.

Each provision in this Agreement is severable. If any provision of this Agreement will be determined to be invalid or unenforceable by a Court of competent jurisdiction, then:

(a) such determination will not invalidate or render unenforceable any other provision of this Agreement;

(b) such provision will be construed as closely as possible to the Parties' original intent in order to render such provision valid or enforceable, as applicable; and

(c) the remaining terms of this Agreement, together with such reconstructed provision, will constitute the Parties' entire Agreement.

20. Amendments

The Department and Grantee may amend this Agreement on their own initiative or at the request of the Company to reflect changes in the Scope of Work, Design or Budget of the Project. Such changes shall be mutually agreed upon, and evidenced by a written Agreement amendment. In no case shall the nature or purpose of the Project be amended from what was generally described in the Scope of Work or Budget. No changes in Scope of Work, costs or services shall be effective until approved in a written Agreement amendment signed by both Parties. The Department and Grantee reserves the right to require review and approval of the Company's elected governing body of any Agreement amendments proposed by the Company's officials.

21. Notices.

Any notice permitted or required under this Agreement from one Party to the other must be in writing and will be effective (a) on the date it was actually delivered to the addressee if delivered personally, or sent by a nationally recognized courier (such as FedEx or United Parcel Service), or sent by facsimile, or (b) three days after having been deposited in the United States Mail, if sent by certified mail, return receipt requested, in each case to the respective address of the Company and the City listed below, or those other addresses of which either Party gives the other Party written notice:

If to the Grantee, to
City of Moscow
ATTN: Grants Manager
206 E. Third Street
Moscow, ID 83843

If to the Company, to
Tom Ertel
10 West Market Street; Suite 110
Indianapolis, IN 46204

With a copy to
Timothy van den Broek
409 S. Jackson Street
Moscow, ID 83843

22. Publicity.

Except as required by law, the Company will make no public announcement of the Parties' entering into this Agreement or the terms and conditions of this Agreement without the prior written consent of the Department and Grantee.

23. Entire Agreement.

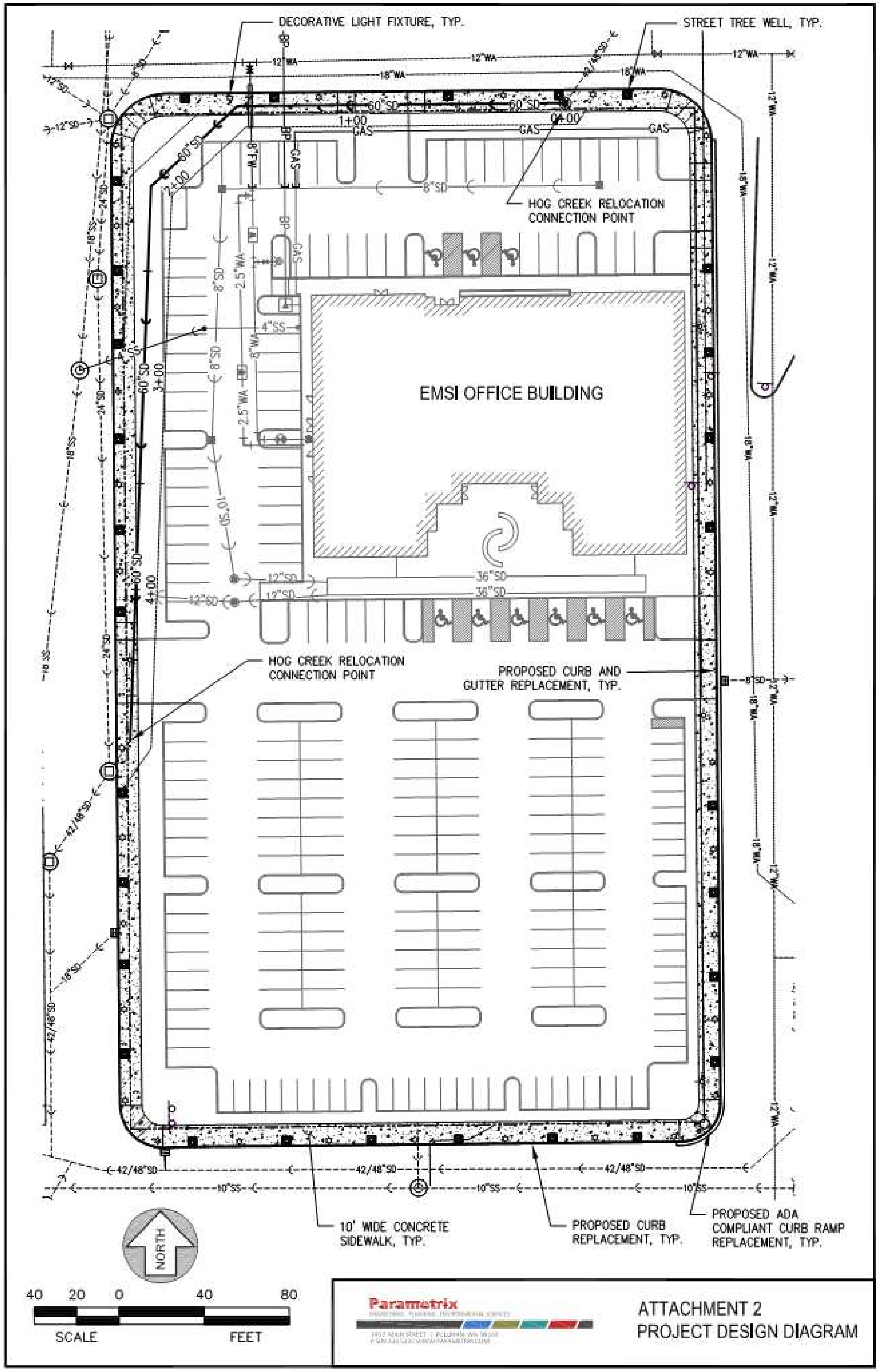
This Agreement is the entire agreement between the Parties with respect to the subject matter hereof. Where terms and conditions specified in the Company's response differ from those specifically stated in this Agreement, the terms and conditions of this Agreement shall apply. In the event of any conflict between these standard terms and conditions and any special terms and conditions applicable to this acquisition, the special terms and conditions will govern. This

Agreement may not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the Parties.

The Parties execute this Idaho Opportunity Fund Agreement as of the Effective Date.

Grantee Name/Title City of Moscow Bill Lambert, Mayor	Company Name/Title
Date	Date

Appendix A – Scope of Work



Appendix B – Budget

EMSI Opportunity Fund Public Improvement Cost Estimate				
Item	**Unit**	**Quantity**	**Unit Cost**	**Cost**
Remove Existing Concrete Sidewalk	SF	6,493	$ 3.50	$ 22,725.50
Remove Existing Concrete Curb	LF	1,497	$ 7.00	$ 10,479.00
Street Tree	EA	29	$ 4,250.00	$ 123,250.00
Decorative Light	EA	34	$ 8,000.00	$ 272,000.00
Concrete Curb (including asphalt patch back)	LF	1,497	$ 35.00	$ 52,395.00
Concrete Sidewalk	SF	13,800	$ 6.00	$ 82,800.00
Concrete Driveway	SF	1,100	$ 7.00	$ 7,700.00
ADA Ramp	EA	4	$ 3,250.00	$ 13,000.00
Hog Creek 48" Culvert Realignment	LS	1	$ 131,361.00	$ 131,361.00
			Total Cost	$ 715,710.50

Public Improvement Funding	
Opportunity Fund Contribution	$ 350,000.00
Company Project Funding	$ 365,710.50
Total Funding	$ 715,710.50

Appendix C – Milestones and Payments

Milestone	Milestone Description	Completion Documentation	Projected Completion Date	Milestone Payment Amount
1	Completion and City acceptance of the relocation of the Hogg Creek storm main in accordance with design illustrated in Appendix A	Letter of completion and acceptance from the City of Moscow	November 2019	$87,500
2	Issuance of Construction Permit and Commencement of Construction	Copy of issued Construction Permit and Contractor Mobilization upon site and commencement of construction activities	December 2019	$87,500
3	Completion of Construction and Receipt of Final Certificate of Occupancy	Copy of Final Certificate of Occupancy	November 2020	$87,500
4	Creation of 27 New Full-time Positions with a Minimum Compensation Level of $34,391 Above and Beyond Company's Employment Level of 126 full-time positions as of January 31, 2019	Copy of Payroll Report Documenting the Number of All Full-time Positions and New Positions Created Including Compensation Levels for New Positions Created	April 2020	$87,500

BOARD OF COUNTY COMMISSIONERS
LATAH COUNTY, IDAHO
RESOLUTION 2019-10

A RESOLUTION OF LATAH COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, GRANTING STRADA IDAHO HOLDINGS, INC. A PROPERTY TAX EXEMPTION PURSUANT TO IDAHO CODE § 63-602NN.

WHEREAS, the Board of Commissioners of Latah County, State of Idaho is the duly elected governing body of Latah County, a political subdivision of the State of Idaho, having such powers and duties as are set forth in the Constitution and Statutes of the State of Idaho; and

WHEREAS, the Board has considered the application of Strada Idaho Holdings, Inc. ("COMPANY") for a property tax exemption per Idaho Code § 63-602NN in new plant investment at its commercial operation; located on property identified as 202 W. A St., Moscow, Idaho and currently designated by Latah County as parcel numbers RPM0530008015AA, RPM0530008001CA, RPM054000B034AA, RPM054000B040AA, RPM054000B042AA, RPM054000B043BA, and RPM054000C001AA ("Project Site"); and

WHEREAS, Idaho Code § 63-602NN authorizes the Board to exempt from property taxation all or part of the change in the Project Site's Base Value attributable directly to Plant Investment by COMPANY, as those terms are now defined in Idaho Code § 63-602NN(2)(a-d); and

WHEREAS, the Base Value is based on the 2018 assessed value of the existing buildings at the Project Site in the amount of five hundred and five thousand dollars ($505,000); and

WHEREAS, COMPANY has demonstrated a defined project through a written plan and application outlining the proposed project that meets, or will meet, all of the requirements of Idaho Code § 63-602NN, as well as those standards established by Latah County in Latah County Ordinance No. 350 for receiving such exemption; and

WHEREAS, COMPANY proposes to invest approximately seventeen and a half million dollars ($17,500,000) in new Plant Investment at the Project Site during the project period as detailed in COMPANY'S September 19, 2019 Latah County Application for Property Tax Exemption and attachments (attached hereto and incorporated herein as "Exhibit A"); and

WHEREAS, the Board finds that significant economic benefits will accrue to Latah County, and to the affected taxing districts within the County as a result of the proposed project by COMPANY based on, but not limited to, the following factors: The investment comes from a company that pays wages substantially over minimum wage; the Plant Investment will help mitigate urban blight; the proposed construction utilizes green/environmentally friendly building techniques; the Plant Investment will help improve public infrastructure and is occurring in an incorporated city; and the Plant Investment will likely increase the jobs available within Latah County and result in an increase in attracting economic growth; and

WHEREAS, notwithstanding this exemption, the value of the land at the Project Site will continue to remain on the property tax rolls of Latah County and be assessed as such; and

WHEREAS, COMPANY has agreed to the terms and conditions set forth herein; and

WHEREAS, this Resolution constitutes the Agreement between the Parties per Idaho Code § 63-602NN.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Latah County as follows:

1. Pursuant to Idaho Code § 63-602NN, as the terms are defined therein, and subject to the terms and conditions set forth below, the Board hereby agrees to exempt from property taxation, for a term of five (5) years, seventy-five percent (75%) of the increase in Base Value of the Project Site attributable directly to Plant Investment by COMPANY as described in Exhibit A, from January 1, 2021 through December 31, 2025, inclusive.

2. As consideration for the Board granting COMPANY a property tax exemption pursuant to Idaho Code § 63-602NN, COMPANY agrees to abide by the following conditions:

a) COMPANY shall make its Plant Investment substantially as described in Exhibit A, including the creation of at least one hundred and fifty (150) new jobs within Latah County, Idaho that pay wages consistent with or higher than COMPANY's current wages; while maintaining current staffing levels of one hundred and twenty-six (126) Latah County employees.

b) COMPANY shall annually provide to the Latah County Assessor, on or before March 15 of each year, beginning in 2020 and each year thereafter through 2025, a detailed report showing the viability and progress of the project; including the status of the construction, a list of new jobs and hourly or annual rate of pay for each job that has been created during the previous calendar year, and a detailed accounting of the construction costs spent on the Plant Investment in the previous calendar year. COMPANY shall permit the Latah County Assessor to verify the annual report, which may include on-site inspections at the Project Site. COMPANY shall maintain evidence and documentation of all Plant Investment made during the project period for at least ten (10) years from the date this exemption ends on December 31, 2025.

c) COMPANY shall meet all requirements of section 2(a) before December 31, 2024. the event COMPANY fails to meet this requirement, Latah County may unilaterally terminate this Agreement and withdraw the tax exemption.

d) If, by the end of this Agreement, COMPANY has failed to meet the use requirements in the "Tax incentive criteria" for exemption pursuant to Idaho Code § 63-602NN(2)(g)(iii), fails to make the amount of Plant Investment substantially as described in Exhibit A, or has ceased doing business in Latah County, then Latah County may recapture all property taxes from COMPANY that, but for this property tax exemption, would have been due and owing by COMPANY in each year this exemption was given; provided, however, that if COMPANY's failure is only due to not meeting the specific requirement that COMPANY create at least one hundred and fifty (150) new jobs in Latah County, Idaho that pay wages consistent with or higher than COMPANY's current wages, while maintaining current staffing levels, any recapture by Latah County shall be limited to no more than ten percent (10%) of the amount of property taxes exempted under this Agreement.. It is expressly understood by the Parties that, at the time of this Agreement, COMPANY's current staffing level is one hundred and twenty-six (126) employees in Latah County, Idaho. If recaptured, property taxes shall be recovered in substantially the same manner as described in Idaho Code § 63-602G(5)(a)-(d), except that Latah County shall have ten (10) years from December 31, 2025 to begin the assessment and collection of the recapture of such property taxes.

e) COMPANY agrees that the amount of taxes to be recaptured, as set out in Section 2(d) above, may be collected as provided in Idaho Code § 63-1101, unless COMPANY and Board agree to other repayment terms and COMPANY complies with such terms.

f) Per Idaho Code § 63-602NN and IDAPA 35.01.03.631.02.a, it is expressly understood by the Parties that this Agreement does not affect the taxable value of the land at the Project Site.

3. Choice of Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Idaho, with venue for any action brought pursuant to this Agreement to be in the Second Judicial District, State of Idaho.

4. Severability: In the event that any provision of this Agreement is found for any reason to be unenforceable, the remainder of this Agreement shall remain in full force and effect and shall be binding upon the Parties.

5. Survival: All covenants, conditions, indemnifications, and other elements in this Agreement that might involve performance subsequent to any termination or expiration of this Agreement or that cannot be reasonably ascertained or fully performed until after termination or expiration of this Agreement shall survive.

6. Performance/Waiver: The failure of a Party hereto to insist upon strict performance or observance of the terms of this Agreement shall not be a waiver of any breach of any terms or conditions of this Agreement by the other Party.

7. Successors and Assigns: This Agreement may not be assigned in whole or in part by either of the Parties hereto without the prior express written consent of the other Party.

/

8. Authority: Each of the Parties hereto warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power, and authority to enter into and execute this Agreement on such Party's behalf, and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

PASSED AND ENTERED INTO this 16 day of October, 2019

Thomas C. Lamar, Chair

Kathie LaFortune

Kathie LaFortune, Commissioner

ATTEST:

Melody Chapman

Deputy Clerk

David McGraw, Commissioner

AGREED TO BY COMPANY this 10th day of October, 2019.

Strada Idaho Holdings, Inc.

Thomas R. Ertel

Tom Ertel
President

STATE OF Indiana)
) ss.
County of Hamilton)

On this 10th day of October 2019, before me, a Notary Public, personally appeared Tom Ertel, known or identified to me as the President of Strada Idaho Holdings, Inc., and stated he has the authority to execute this instrument on behalf of Strada Idaho Holdings, Inc., and did execute this instrument on behalf of Strada Idaho Holdings.

Notary Public for
Commission Expires

Kimberly Kelley Lucas
Hamilton County Resident
Commission Expires
August 21, 2024

Sign-in Sheet

Board of County Commissioners Meeting with Taxing Districts, Urban Renewal Agencies, and Idaho Department of Commerce regarding Property Tax Exemption Application (I.C. 63-602NN) by Strada Holdings, Inc.

Name (Please Print)	Address	City	State
TIMOTHY VAN DEN BROEK	620 E 3RD St	Moscow	ID
Gina Taruscio	1223 East E	Moscow	ID
Alyssa Hartford	522 S. Adams	Moscow	ID
Henrianne K. Westberg	"	"	"
BRAD BROENNEKE	1209 WILTSHIRE	Moscow	ID
Rod Wakefield	1080 Paradise Ridge	Moscow	ID

Date: Wednesday, October 16, 2019 Time: 8:15 AM
Place: Latah County Courthouse, Room 2B

CITY OF MOSCOW
1887
IDAHO
Heart of the Arts

Bill Lambert
Mayor

Jim Boland
Council President

Brandy Sullivan
Council Vice-President

Art Bettge
Council Member

Kathryn Bonzo
Council Member

Gina Taruscio
Council Member

Anne Zabala
Council Member

Gary J. Riedner
City Supervisor

City of Moscow, City Hall
c/o Gary J. Riedner, City Supervisor
206 East 3rd Street
P.O. Box 9203
Moscow ID 83843
Phone (208) 883-7000
Fax (208) 883-7018

Website: www.ci.moscow.id.us
Hearing Impaired (208) 883-7019

October 14, 2019

Tom Lamar, Chair
Dave McGraw, Commissioner
Kathie LaFortune, Commissioner
Latah County Commission
P.O. Box 8068
522 S. Adams Street
Moscow, ID 83843

Re: Application for Partial Property Tax Exemption for New Plant Investment by Strada Idaho Holdings, Inc. (Emsi) per Idaho Code §63-602NN

Dear Commissioners:

Thank you for providing notice of the meeting being held on Wednesday, October 16, 2019 at 8:15 a.m. at your chambers to consider the application of Strada Idaho Holdings, Inc. (Emsi) for Partial Property Tax Exemption for New Plant Investment pursuant to the authority granted by Idaho Code §63-602NN.

We have also reviewed the proposed Resolution provided by your legal counsel and are pleased with the proposed property tax exemption contained in that Resolution.

The City is very familiar with the subject property located at 202 West A Street in Moscow. We also recognize Strada Idaho Holdings, Inc. (Emsi) for their quality business here in Moscow, and are pleased to support their proposal to re-locate and expand that business in our City and County, which will provide a broader economic base and additional job opportunities to members of our community.

Consistent with the efforts of the City and County in supporting economic development initiatives which benefit our community, this is an opportunity to leverage the limited incentives we have at our disposal to encourage business expansion. Similar to support of the Moscow Urban Renewal Agency's efforts to aid in economic development in our city and county, we are likewise supportive of your consideration of granting Strada Idaho Holdings, Inc. (Emsi) this temporary property tax relief in order to encourage business investment in our community.

Please feel free to contact me if you have any questions, or if I can provide further information.

Thank you.

Bill Lambert

Bill Lambert
Mayor

PARTNERSHIP
for
ECONOMIC
PROSPERITY
PO BOX 9464 • 1006 RAILROAD STREET • MOSCOW, ID 83843

October 16, 2019

To: The Honorable Latah County Commissioners

Re: Strada Idaho Holdings, Inc. request for temporary partial property tax exemption

Commissioners Lamar, McGraw and LaFortune,

The Partnership for Economic Prosperity Board of Directors enthusiastically supports the application of Strada Idaho Holdings, Inc. for temporary partial tax exemption for the expansion of their Economic Modeling Specialists, Incorporated campus in Moscow.

Not only does this exemption retain a strong local business, it is also bringing 327 new jobs to Latah county, and the $21M project investment in this location will also act as a significant catalyst for further and additional private investment and community improvement within the surrounding area.

We believe that this impact makes a solid business case and encourage you to move ahead with this worthy project.

Sincerely,

Gina Taruscio, MPA, Executive Director
The Partnership For Economic Prosperity, Inc.