Moscow City Council

Regular Meeting
~Agenda~

www.ci.moscow.id.us

Laurie M. Hopkins
City Clerk

208.883.7015

Monday, November 4, 2019	**7:00 PM**	**Council Chambers 206 E. Third St.**

The Moscow Mayor, City Council and Staff welcome you to tonight's meeting. We appreciate and encourage public participation. For regular agenda items, an opportunity for public comment is sometimes provided after the staff report. However, the formality of procedures varies with the purpose and subject of the agenda item; therefore, the Mayor may exercise discretion in deciding when to allow public comment during the course of the proceedings and limitations may be placed on the time allowed for comments. Citizens wishing to comment on business that is not on the agenda will be provided the opportunity to do so during the public comment item on the agenda. If you plan to address the Council, you will find a list of "Tips for Addressing the Council" in the door pocket outside the City Council Chambers. Please note that Moscow City Council meetings are televised, videotaped and/or recorded. Thank you for your interest in City government.

PLEDGE OF ALLEGIANCE

CONSENT AGENDA

1. **All Consent Items (ACTION ITEM)**

   A. **Approval of Moscow City Council October 21, 2019 Minutes - Laurie M. Hopkins**
   Minutes presented for approval.

   ACTION: Approve minutes.

   B. **Professional Service Prequalification Process Resolution - 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.

This was reviewed by the Public Works/Finance Committee on October 28, 2019 and recommended for approval.

ACTION: Approve the proposed Resolution.

REGULAR AGENDA

2. **Staff Recognition Report - Gary J. Riedner**

3. **Mayors Appointments (ACTION ITEM)**

4. **Public Comment and Mayor's Response Period (limit 15 minutes)**

5. **Citizen Commission Report - Moscow Tree Commission – David Schott / Daniel Cronan**

6. **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. This was reviewed by the Public Works/Finance Committee on October 28,2019 and recommended for approval.

   PROPOSED ACTIONS: Approve the Opportunity Fund Agreements; or reject the Agreements; or take other such other action deemed appropriate.

7. **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. This was reviewed by the Public Works/Finance Committee on October 28, 2019 and forwarded to the full Council for review and action.

PROPOSED ACTIONS: Approve the DEQ Phase II Domestic Water System Improvement Loan Offer and associated Resolution; or take such other action deemed appropriate.

REPORTS

City Council

Mayor

Staff

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.

Moscow City Council

Regular Meeting
~Minutes~

www.ci.moscow.id.us

Laurie M. Hopkins
City Clerk

208.883.7015

Monday, October 21, 2019 **7:00 PM** **Council Chambers 206 E. Third St.**

The meeting was called to order at 7:00 p.m.
PRESENT: Mayor Bill Lambert, Art Bettge, Jim Boland, Kathryn Bonzo, Brandy Sullivan, Gina Taruscio
ABSENT: Anne Zabala
STAFF: Mia Vowels, Bill Belknap, James Fry, Laurie M. Hopkins

PLEDGE OF ALLEGIANCE
Council Member Bettge led the Pledge of Allegiance.

CONSENT AGENDA

1. All Consent Items (ACTION ITEM)

A. Approval of Moscow City Council October 7, 2019 Minutes - Laurie M. Hopkins

Minutes presented for approval.

ACTION: Approve minutes.

B. Disbursement Report for September 2019 - Sarah Banks

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

ACTION: Approve the Disbursements Report for the month of September, 2019.

C. Proposed Lot Division at 933 E. Seventh Street - 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. This item was reviewed by the Public Works/Finance Committee on October 14, 2019 and recommended for approval.

ACTION: Approve the lot division request with no conditions.

Bonzo moved and Taruscio seconded to approve the consent agenda as presented. Roll Call Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

REGULAR AGENDA

2. Mayors Appointments (ACTION ITEM)

None offered.

3. Staff Recognition Report - Gary J. Riedner

None offered.

4. Public Comment and Mayor's Response Period (limit 15 minutes)

Frank Dejourneau, Moscow, said the Lena PTA has been raising funds for their playground equipment but coming up short. He asked if there is a way for the parks department to assist in the remaining cost. Mayor Lambert said there is a possibility that the issue can go through council committee.

Kenton Bird, Moscow, brought five students from reporting class. He has assigned writing about the meeting and another idea of what is happening in the City.

5. Latah Recovery Center Funding Request (ACTION ITEM) – Bill Belknap

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. This was reviewed by the Public Works/Finance Committee on October 14, 2019 and recommended for approval.

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 take other such action deemed appropriate.

Belknap introduced the item as above. The Council has, in the past, funded these types of projects as a one time improvement project. Darrel Keim, Recovery Center Director, explained this project will assist with expanding services with the crisis center. James Fry, Police Chief, anticipates the expansion will reduce transports to Gritman, saving money and man power. He gave statistics of calls since 2016. Keim described the definition of a crisis and the process for evaluation.

Boland said it is a benefit to the community and moved to approve the $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. Taruscio seconded. Roll Call Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

REPORTS

City Council

SMART Transit – Boland said the Board approved their strategic plan and it seems more students are aware of the bus system with the addition of the new route through campus.

Moscow Arts Commission – Bettge reported the Commission is working on their strategic plan; discussing increasing the profile of the Third Street Gallery; Palouse Plein Air had 36 artists displayed at the Pritchard Gallery; a committee is reviewing the top three finalists for the C and Main Street public art project.

Moscow Volunteer Fire Department – Taruscio said the remodel of Station 1 is almost complete. The Department was chosen by the National Volunteer Fire Council as a recruiting group and photo shot for the "Make me a fire fighter" campaign.

Sustainable Environment Commission – Bonzo said the Commission heard a presentation by Gene Gussenhoven from the University of Idaho regarding carbon neutral and micro-turbines.

Council Members reported on other meetings and events.

Mayor

Mayor Lambert attended the water summit; ribbon cutting for the new runway; the Airport Board is working on a flight to Boise and recruiting for a flight to Denver through United Airlines; MYAC meeting and recruitment; homecoming and other events.

Staff

Belknap reminded everyone the next monthly city/county/MSD/UI meeting is on November 6, 2019.

ADJOURN

The meeting adjourned at 7:38 p.m.

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Bill Lambert, Mayor

ATTEST:

____

Laurie M. Hopkins, City Clerk

CITY COUNCIL STAFF REPORT

DATE: Monday, November 4, 2019

RESPONSIBLE STAFF	REVIEWED BY
Bill Belknap, Community Development Director	This was reviewed by the Public Works/Finance Committee on October 28, 2019 and recommended for approval.
ADDITIONAL PRESENTER(S)	**OTHER RESOURCES**

AGENDA ITEM TITLE

Professional Service Prequalification Process Resolution - 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.

This was reviewed by the Public Works/Finance Committee on October 28, 2019 and recommended for approval.

STAFF RECOMMENDATION

Approve the proposed resolution.

PROPOSED ACTIONS

ACTION: Approve the proposed Resolution.

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

CITY COUNCIL STAFF REPORT

DATE: Monday, November 4, 2019

RESPONSIBLE STAFF	REVIEWED BY
Bill Belknap, Community Development Director, Alisa Anderson, Grants Manager	This was reviewed by the Public Works/Finance Committee on October 28,2019 and recommended for approval.
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. This was reviewed by the Public Works/Finance Committee on October 28,2019 and recommended for approval.

STAFF RECOMMENDATION

Approve the Opportunity Fund Agreements.

PROPOSED ACTIONS

PROPOSED ACTIONS: Approve the Opportunity Fund Agreements; or reject the Agreements; or take other such other action deemed appropriate.

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

____

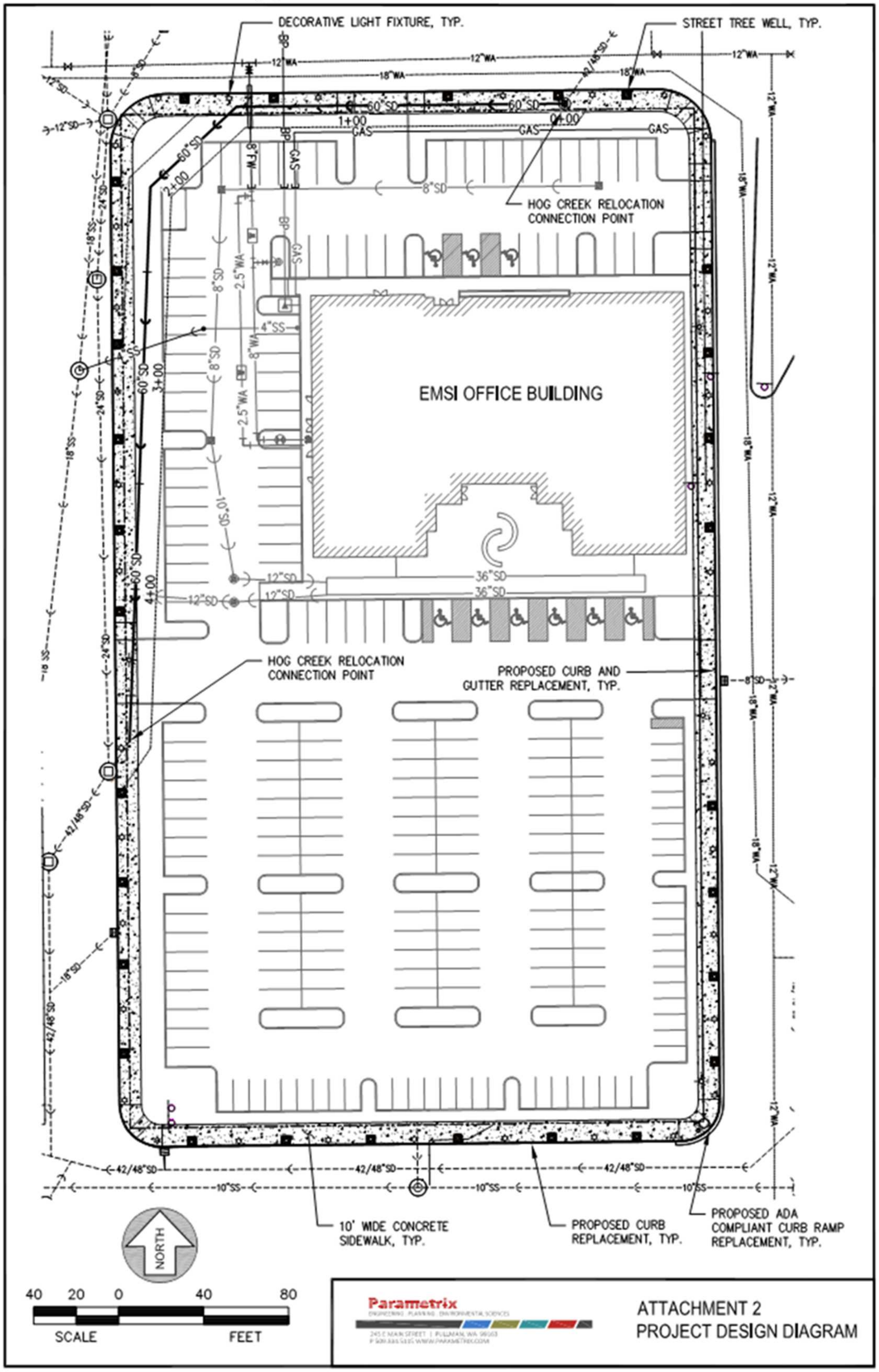
____
Date

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.

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 IDAHO 1887
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.

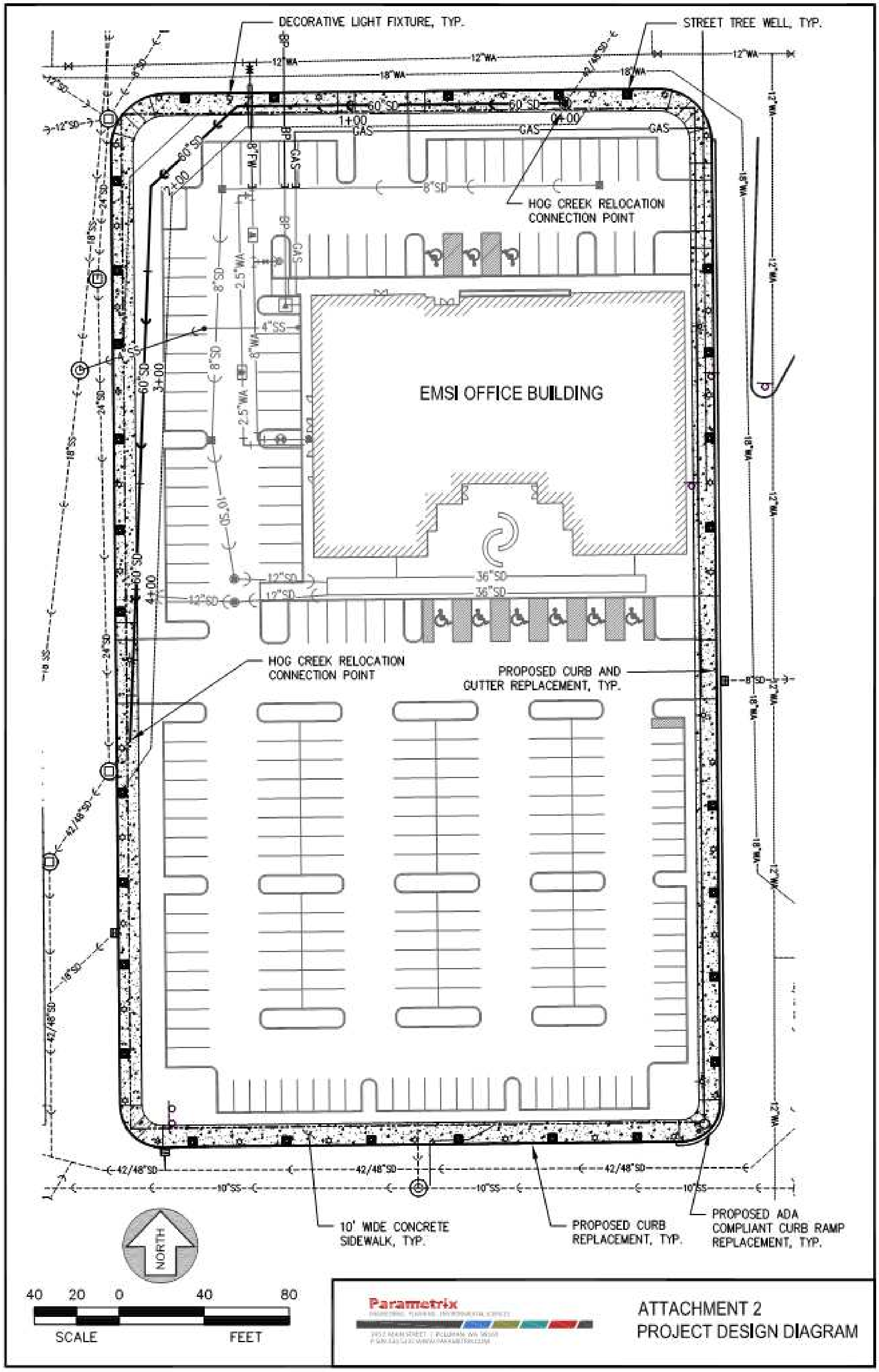
Grantee Name/Title
City of Moscow
Bill Lambert, Mayor

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.

CITY COUNCIL STAFF REPORT

DATE: Monday, November 4, 2019

RESPONSIBLE STAFF	REVIEWED BY
Bill Belknap, Community Development Director	This was reviewed by the Public Works/Finance Committee on October 28, 2019 and forwarded to the full Council for review.

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 Council's review. This was reviewed by the Public Works/Finance Committee on October 28, 2019 and forwarded to the full Council for review and action. The City's bond counsel has reviewed the loan agreement and has requested a few minor amendments which DEQ has accepted. Staff is recommending approval of the loan offer agreement including bond counsel's requested amendments.

STAFF RECOMMENDATION

Approve the DEQ Phase II Domestic Water System Improvement Loan Offer and associated Resolution including the City's bond counsel's minor amendments to the Loan Offer Agreement.

PROPOSED ACTIONS

PROPOSED ACTIONS: Approve the DEQ Phase II Domestic Water System Improvement Loan Offer and associated Resolution; or take such other action deemed appropriate.

FISCAL IMPACT

PERSONNEL IMPACT

ATTACHMENTS

1. RES -Revenue Bonds IDEQ 2019 with Atttach
2. Bond Counsel Review Comments

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") 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 Phase II 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 Phase II 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 Phase II Loan Offer.

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

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 (State) is authorized by Title 39, Chapter 36 (Act), Idaho Code, to make loans from the Drinking Water Treatment Facility Loan Account (Account) to assist municipalities in the construction of drinking water treatment facilities. The Idaho Board of Environmental Quality, through the Department of Environmental Quality (Department), is authorized to administer the Act. The Department has determined that the City of Moscow (Borrower) 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 (the Rules).

The Borrower is a public entity with the authority to finance public improvements. The Borrower also has the authority to operate and maintain the public drinking water system located in the City of Moscow and taking all necessary actions to ensure that the public drinking water system meets all applicable laws. The Department hereby offers a loan to the Borrower 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 1406F
B.	Name and Address of Borrower:	City of Moscow PO Box 9203 Moscow, Idaho 83843
C.	Project Description:	This loan is for phase 2 of the design, development and construction of well, transmission mains, replacement of existing booster pumps stations and water lines.
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	$1,591,000
2.	Source Development	$2,279,000
3.	Engineering	$430,000
	Total	$4,300,000

SECTION III. GENERAL CONDITIONS

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

The Borrower 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 (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, the Borrower may 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 the Borrower, in support of the request for this loan. Which 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).

a. The separate fair share goals for MBE and for WBE will be in bid solicitations and documentation of efforts to obtain MBE/WBE participation will be required of any contractor who fails to attain the goals; and,
b. Annual reports of MBE/WBE utilization will be prepared on forms supplied by the Department; and,
c. Include 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 contract. 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 contract which may result in the termination of this contract or other legally available remedies."*

F. To provide 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 the Borrower for the useful life of the project, prior to commencement of construction. Land acquisitions shall only be reimbursed by DEQ 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 the Borrower 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 the Borrower 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 the Borrower. All costs incurred by the Department due to such default, including court costs and attorney's fees, shall be repaid by the Borrower 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 the Borrower and the Department, and any person, office or entity succeeding the Borrower 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 Borrower expends more than $750,000 of any federal funds in a fiscal year, Borrower shall conduct an audit in accordance with the SAA. In such case, Borrower shall provide the Department a copy of the SAA audit within nine (9) months of the end of the audit period per the SAA. Borrower recognizes that it is responsible for determining if the $750,000 threshold is reached and if a SAA audit is required. Additionally, Borrower shall inform the Department, in writing, of findings or recommendations pertaining to the State Revolving Fund contained in any SAA audits conducted by Borrower.

O. 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) the Borrower has requested and obtained a waiver from Department pertaining to the Project or (ii) Department has otherwise advised the Borrower in writing that the American Iron and Steel Requirement is not applicable to the Project.

Comply with all record keeping and reporting requirements under the Safe Drinking Water Act (Section 1452, Title XIV of the Public Health Service Act), including any reports required by a Federal agency or Department such as information on costs and project progress.

The Borrower 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.

P. 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.

SECTION IV. PROJECT MANAGEMENT

The Borrower 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 the Borrower.

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 the Borrower 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 treatment 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). Borrower 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 A, of the DWSRF Loan Handbook, located at http://www.deq.idaho.gov/media/60183096/6-a-dw-0819.pdf (*current as of* 10/17/2019).

SECTION V. SPECIAL CONDITIONS

A. The Borrower shall complete the attached project schedule and submit to the Department for approval on or before 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. The Borrower 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.

C. Prior to final loan distribution, the City shall have established a written customer service policy and an operating emergency plan (supported by board adoption).

D. If your community receives $750,000 or more in Federal monies, in any single fiscal year, during the period under which you are receiving loan disbursements, than you must submit a Single Audit Act audit report to DEQ (for each and every year the threshold is met).

E. A technical memorandum shall be developed and submitted during the detailed design phase for each Green Project Reserve (GPR) component identified in the Letter of Interest. The memorandum shall fully detail the GPR justification according to the current EPA guidance for determining project eligibility and comparable to the examples provided on the Department's website. Please review the following URLs for guidance (*current as of* 10/17/2019):http://www.deq.idaho.gov/water-quality/grants-loans/green-project-reserve.aspx

F. Prior to loan closure the Borrower will implement all the management and technology based sustainability efforts per their letter of interest.

G. Manage direct and indirect environmental impacts from the project that are specified in the environmental review.

SECTION VI. SECURITY REQUIREMENTS

The Borrower agrees:

A. This loan will be evidenced and secured by a promissory note or bond in the amount of $4,300,000 (four million, three hundred thousand dollars). 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 year's payment of principal, fees and interest on the loan established. The Borrower has ten years to establish the reserve, setting aside 10% (ten percent) of one year's payment into the reserve fund each year.

SECTION VII. LOAN DISBURSEMENTS

The Borrower agrees:

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

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

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. The Borrower's engineer certifies (a) that the project has been constructed according to plans and specifications previously approved by the Department, (b) an operations manual has been completed and (c) that the project is fully operational; and

2. The Department has inspected the project and verifies the engineer'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 (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 the Borrower the offered sum of money on the basis of the Borrower's priority position immediately upon the accrual of said sum in the Account.

SECTION VIII. REPAYMENT TERMS AND SCHEDULE

The Borrower 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 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 the Borrower 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 the Borrower 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 the Borrower. If the Borrower initiates a contested case, the termination or suspension shall be determined by the Board.

D. The Borrower 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 the Borrower 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, the Borrower shall immediately pay back to the Department all disbursed funds and accrued interest.

SECTION X. ACCESS AND INDEMNIFICATION

The Borrower agrees to:

A. Provide the Director, or his/her 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 the Borrower 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 60 days from the date of this loan offer. An acceptance must be accompanied by a resolution of the Applicant's governing body authorizing the signator to sign on the Applicant's behalf for the purpose of this agreement.

Dated October___, 2019.

____
John H. Tippets
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.

____
Signature of Representative

____
Name and Title of Representative - type or print

____
Date

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 _________, 2019 (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__, as previously supplemented and as further supplemented by Supplemental Ordinance No. ____ dated _______________(collectively, 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

HT comments

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 (State) is authorized by Title 39, Chapter 36 (Act), Idaho Code, to make loans from the Drinking Water Treatment Facility Loan Account (Account) to assist municipalities in the construction of drinking water treatment facilities. The Idaho Board of Environmental Quality, through the Department of Environmental Quality (Department), is authorized to administer the Act. The Department has determined that the City of Moscow (Borrower) 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 (the Rules).

The Borrower is a public entity with the authority to finance public improvements. The Borrower also has the authority to operate and maintain the public drinking water system located in the City of Moscow and taking all necessary actions to ensure that the public drinking water system meets all applicable laws. The Department hereby offers a loan to the Borrower 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 1406F
B.	Name and Address of Borrower:	City of Moscow PO Box 9203 Moscow, Idaho 83843
C.	Project Description:	This loan is for phase 2 of the design, development and construction of well, transmission mains, replacement of existing booster pumps stations and water lines.
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.

DRAFT

E. Estimated Project Budget:

1.	Transmission & Distribution	$1,591,000
2.	Source Development	$2,279,000
3.	Engineering	$430,000
	Total	$4,300,000

SECTION III. GENERAL CONDITIONS

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

The Borrower 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 (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, the Borrower may 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 the Borrower, in support of the request for this loan. ~~Which~~ 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).

a. The separate fair share goals for MBE and for WBE will be in bid solicitations and documentation of efforts to obtain MBE/WBE participation will be required of any contractor who fails to attain the goals; and,

b. Annual reports of MBE/WBE utilization will be prepared on forms supplied by the Department; and,

c. Include 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 contract. 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 contract which may result in the termination of this contract or other legally available remedies."*

F. To provide 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 the Borrower for the useful life of the project, prior to commencement of construction. Land acquisitions shall only be reimbursed by DEQ 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 the Borrower to the Department.

subject to the Borrower's ordinance governing prior parity indebtedness of the water system,

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 the Borrower 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 the Borrower. All costs incurred by the Department due to such default, including court costs and attorney's fees, shall be repaid by the Borrower 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 the Borrower and the Department, and any person, office or entity succeeding the Borrower 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 Borrower expends more than $750,000 of any federal funds in a fiscal year, Borrower shall conduct an audit in accordance with the SAA. In such case, Borrower shall provide the Department a copy of the SAA audit within nine (9) months of the end of the audit period per the SAA. Borrower recognizes that it is responsible for determining if the $750,000 threshold is reached and if a SAA audit is required. Additionally, Borrower shall inform the Department, in writing, of findings or recommendations pertaining to the State Revolving Fund contained in any SAA audits conducted by Borrower.

O. 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) the Borrower has requested and obtained a waiver from Department pertaining to the Project or (ii) Department has otherwise advised the Borrower in writing that the American Iron and Steel Requirement is not applicable to the Project.

Comply with all record keeping and reporting requirements under the Safe Drinking Water Act (Section 1452, Title XIV of the Public Health Service Act), including any reports required by a Federal agency or Department such as information on costs and project progress.

The Borrower 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.

P. 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.

SECTION IV. PROJECT MANAGEMENT

The Borrower 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 the Borrower.

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.

(ii) funding a reserve fund

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.

iii (iv)

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 the Borrower 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 treatment 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). Borrower 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 A, of the DWSRF Loan Handbook, located at http://www.deq.idaho.gov/media/60183096/6-a-dw-0819.pdf (*current as of* 10/17/2019).

SECTION V. SPECIAL CONDITIONS

A. The Borrower shall complete the attached project schedule and submit to the Department for approval on or before 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. The Borrower 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.

C. Prior to final loan distribution, the City shall have established a written customer service policy and an operating emergency plan (supported by board adoption).

D. If your community receives $750,000 or more in Federal monies, in any single fiscal year, during the period under which you are receiving loan disbursements, than you must submit a Single Audit Act audit report to DEQ (for each and every year the threshold is met).

E. A technical memorandum shall be developed and submitted during the detailed design phase for each Green Project Reserve (GPR) component identified in the Letter of Interest. The memorandum shall fully detail the GPR justification according to the current EPA guidance for determining project eligibility and comparable to the examples provided on the Department's website. Please review the following URLs for guidance (*current as of* 10/17/2019):http://www.deq.idaho.gov/water-quality/grants-loans/green-project-reserve.aspx

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F. Prior to loan closure the Borrower will implement all the management and technology based sustainability efforts per their letter of interest.

G. Manage direct and indirect environmental impacts from the project that are specified in the environmental review.

SECTION VI. SECURITY REQUIREMENTS

The Borrower agrees:

A. This loan will be evidenced and secured by a promissory note or bond in the amount of not exceeding $4,300,000 (four million, three hundred thousand dollars). 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 year's payment of principal, fees and interest on the loan established. The Borrower has ten years to establish the reserve, setting aside 10% (ten percent) of one year's payment into the reserve fund each year.

SECTION VII. LOAN DISBURSEMENTS

The Borrower agrees:

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

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

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