

Canyon County Elections Building Construction Project
Architecture and Engineering Professional Services Contract

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ARTICLE 1 AGREEMENT

This Agreement is made and commences on the date it has been fully executed between the following Parties for design professional services in connection to the Canyon County Elections Building Project ("PROJECT"):

Canyon County, a political subdivision of the State of Idaho with primary office locations at 1115 Albany St., Caldwell, ID 83605 ("OWNER");

and

RBA Architects, LLC, an Idaho limited liability company located at 508 South Pine Street, Nampa, Idaho 83686 ("DESIGN PROFESSIONAL").

The Construction Manager for the Project, Beniton Construction, Inc., an Idaho corporation with its principal location at 389 SW 5th Ave, Meridian, Idaho 83642, is not a party to this Agreement.

Notice to the above entities shall be given at the above addresses.

ARTICLE 2 GENERAL PROVISIONS

2.1 STANDARD OF CARE Design Professional shall furnish or provide architectural and engineering Services necessary to design the Project in accordance with Owner's requirements, as outlined in Owner's Program and other relevant data defining the Project, which are attached as Exhibit A ("Services"). The Services shall include Basic Services plus any Additional Services which may be authorized by Owner. Services shall be performed in accordance with the standard of professional skill and care required for a Project of similar size, location, scope, and complexity, during the time in which the Services are provided.

2.2 RELATIONSHIP OF THE PARTIES Design Professional represents that it possesses the skill, expertise, and licensing to perform the Services. The Parties agree to work together on the basis of mutual trust, good faith, and fair dealing, and shall take actions reasonably necessary to enable each other to



perform this Agreement in a timely, efficient, and economical manner. The Parties shall endeavor to promote harmony and cooperation among all Project participants.

2.3 Neither Design Professional nor any of its agents or employees shall act on behalf of or in the name of Owner except as provided in this Agreement or authorized in writing by Owner.

2.4 ETHICS The Parties shall each perform its obligations with integrity, ensuring at a minimum to each: (a) avoid conflicts of interest and (b) promptly disclose to the other Party any conflicts of interest which may arise. Each Party warrants to the other Party that it has not paid or received, and shall not pay nor receive, any contingent fees or gratuities to or from the other Party, including its agents, officers, and employees, consultants, or others employed directly or indirectly by any of them, to secure preferential treatment.

2.5 CONSTRUCTION MANAGER Owner shall retain or employ a Construction Manager to be Owner's agent and to furnish construction administrative and management Services for the Project, or, alternatively, may act as its own Construction Manager. Design Professional shall coordinate its scope of Services with that of the Construction Manager so as to avoid any duplication of Services. Design Professional shall provide those Services reasonably requested by Owner and included within Design Professional's scope of Services under this Agreement, subject to the appropriate standard of care. Such Services shall be provided promptly and in accordance with time schedules agreed upon by Owner, Construction Manager, and Design Professional. Owner shall reasonably coordinate the exchange of information requested by Construction Manager or requested by Design Professional. Upon request of Design Professional, Owner shall furnish to Design Professional a copy of Owner's Agreement with the Construction Manager, from which compensation provisions may be deleted. The Agreement between Owner and the Construction Manager shall not be modified in a way that it directly impacts Design Professional without written notification to Design Professional.

2.6 DEFINITIONS

2.6.1 "Agreement" means this ConsensusDocs 840, Standard Agreement Between Owner and Design Professional (Where Owner Hires or Acts as its Own CM), as modified by the Parties, and Exhibits and Attachments made part of this Agreement upon its execution.

2.6.1.1 The following Exhibits are part of this Agreement:

EXHIBIT A: Project and Worksite Information and Project Schedule.

2.6.2 "Business Days" are all Days, except weekends and official federal or state holidays where the Project is located.

2.6.3 "Consultant" is a person or entity which contracts with Design Professional to provide professional architectural, engineering, or other consulting services for this Project.

2.6.4 "Construction Documents" means the plans, specifications, and other documents provided by Design Professional to Owner which delineate the design and specify other necessary requirements relating to the construction of the Project.

2.6.5 "Day" means a calendar day.



2.6.6 "Design Professional" means the person or entity identified in ARTICLE 1 and includes Design Professional's representative.

2.6.7 The "Construction Budget" is the budget prepared by Construction Manager for review by Design Professional and approval by Owner. It is prepared when Owner and Construction Manager agree that the Construction Documents are sufficiently complete and includes the sum of the estimated cost of the Work, the clarifications and assumptions upon which it is based, allowances, reasonable contingencies, and Construction Manager's compensation.

2.6.8 "Construction Manager" is the person or entity identified in ARTICLE 1 and retained by Owner to furnish construction administrative and management Services for the Project and includes Construction Manager's representative.

2.6.9 "Cost of Construction" means Owner's total cost of Project components. In the event the Project is not completed, Cost of Construction shall mean the total cost to perform all Work identified in the Construction Documents.

2.6.10 A "Hazardous Material" is any substance or material identified as hazardous under any federal, state, or local law or regulation, or any other substance or material which may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling, disposal, or clean-up.

2.6.11 "Laws" mean federal, state, and local laws, ordinances, codes, rules, and regulations applicable to the Work and with which Design Professional must comply that are enacted as of the Agreement date.

2.6.12 "Others" means other contractors, suppliers, and persons at the Worksite who are not employed by the Trade Contractors or Subcontractors. The term Others does not include Construction Manager or Design Professional.

2.6.13 "Owner" is the person or entity identified in ARTICLE 1 and includes Owner's representative.

2.6.14 "Owner's Program" is an initial description of Owner's objectives that shall include budgetary and time criteria, space requirements and relationships, flexibility and expandability requirements, special equipment and systems, and site requirements. Exhibit A is the Owner's Program for the Project.

2.6.15 "Parties" mean Owner and Design Professional collectively.

2.6.16 The "Project," as identified in ARTICLE 1, is the building, facility, or other improvements for which the Trade Contractors are to perform Work. It may also include construction by Owner or Others.

2.6.17 The "Project Schedule" is the document initially prepared by and updated by Construction Manager and approved by Owner that indicates proposed activity sequences, durations, or milestone dates for such activities as receipt and approval of pertinent information, issuance of the Construction Documents, the preparation and processing of shop drawings and samples, delivery of materials or equipment requiring long-lead-time procurement, Owner's occupancy requirements, and the estimated date of Substantial Completion of the Project.

2.6.18 "Services" are the professional services performed by Design Professional and its Consultants as required by this Agreement, including Basic Services provided in the Design and Construction Phases Services which may be authorized by Owner. Services includes coordination of design services



of Trade Contractors or Subcontractors who may be engaged by Owner to provide both design and construction services for certain Project elements.

2.6.19 A "Subcontractor" is a person or entity retained by a Trade Contractor as an independent contractor to provide the labor, materials, equipment, or Services necessary to complete a specific portion of the Work. The term Subcontractor does not include Design Professional or Others.

2.6.20 A "Trade Contractor" is a party or entity retained by Owner as an independent contractor to provide the labor, materials, equipment, or services necessary to complete a specific portion of the Work.

2.6.21 The term "Work" means the procurement, erection, installation, construction, and Services necessary or incidental to construct the Project in conformance with the Construction Documents.

2.6.22 "Worksite" means the geographical areas of the Project location as identified in ARTICLE 1 where the Work is to be performed.

ARTICLE 3 DESIGN PROFESSIONAL'S RESPONSIBILITIES

3.1 GENERAL RESPONSIBILITIES

3.1.1 PROJECT REQUIREMENTS Design Professional, in order to determine the requirements of the Services, shall conduct a preliminary evaluation of the information set forth in Exhibit A. Design Professional shall confirm its understanding of such requirements with Owner and shall assist Owner to refine or make clarifications to Owner's Program for the Project.

3.1.2 Design Professional shall not proceed with the development of successive design documents until receiving written approval from Owner. Design Professional shall promptly revise without additional compensation:

3.1.2.1 those documents which have not been previously approved by Owner and to which Owner has reasonable objections,

3.1.2.2 those documents identified by the Construction Manager and reasonably accepted by Owner as presenting constructability problems, and

3.1.2.3 those documents needing revisions to reflect clarifications, assumptions, and allowances on which a guaranteed maximum price is based. To the extent that any design documents approved by Owner deviate from the requirements of Owner's Program, the approved design documents shall govern.

3.1.3 Design Professional shall have reasonable access to the Worksite at all times.

3.1.4 Design Professional shall assist Owner and Construction Manager with filing required documents with governmental authorities having jurisdiction over the Project, including filing documents required to obtain permits necessary for construction of the Project.

3.1.5 Design Professional shall not be responsible for the acts or omissions of Owner, Construction Manager, Trade Contractors, Subcontractors, and their respective agents or employees, or any other persons or entities performing work on the Project who are not under the direct control or authority of Design Professional.



3.2 BASIC SERVICES Design Professional's Basic Services consist of any Services provided pursuant to Sections 3.1 and 3.2. Design Professional shall identify here or in a separate attached exhibit: (a) any other Services included in Basic Services; (b) the specific design disciplines included in Basic Services; (c) those portions of the Project design to be furnished by Owner, Trade Contractor, or Others; and (d) Services that are required to comply with elected green measures and green status identified in Owner's Program. If any additional services are required, such services shall be included as Additional Services). Documents generated by Design Professional shall be in a format consistent with Owner's Program, including the use of Building Information Modeling (BIM). If applicable, BIM use shall be governed by the ConsensusDocs 301 BIM Addendum or separate addenda. If professional design Services are to be furnished by Owner, Trade Contractor, or Others, Design Professional shall indicate all performance and design criteria to be satisfied in accordance with Owner's Program, and Owner, Trade Contractor, and Others shall not be responsible for the adequacy of such performance and design criteria. Design Services furnished by parties other than Design Professional shall be obtained from licensed design professionals, who shall affix their signature and seal on all drawings, specifications, calculations, and submittals prepared by them, and Design Professional shall be entitled to rely upon the adequacy, accuracy, and completeness of such design Services.

3.2.1 BUDGETS Design Professional promptly shall review and make recommendations to Owner about the budgets prepared by Construction Manager for the Project. Design Professional shall provide its Services in conformance with the budgets approved by Owner.

3.2.2 PROJECT SCHEDULE Design Professional shall promptly review, and make recommendations to Construction Manager and Owner about, the preliminary and updated Project Schedule prepared by Construction Manager. To facilitate the preparation of the Project Schedule by Construction Manager, Design Professional shall submit, for Construction Manager's review and Owner's approval, a schedule of Design Professional's Services. Design Professional shall provide its Services, subject to the applicable standard of care, within the times given for such Services in the Project Schedule approved by Owner.

3.2.3 SCHEMATIC DESIGN DOCUMENTS Based upon Owner's Program, including any approved refinements or clarifications, Design Professional shall prepare, for Construction Manager's review and Owner's approval, Schematic Design Documents consisting of drawings, outline specifications and other documents illustrating the Project's basic elements, scale, and their relationship to the Worksite. Schematic Design Documents shall include, as applicable, conceptual plans of the Worksite and structures; preliminary sections and elevations; approximate areas, volumes and dimensions; and preliminary selections of materials and systems. Unless documents are required to be transmitted in electronic form, two printed sets and one reproducible set of Schematic Design Documents shall be provided to Owner for its review and for distribution to Construction Manager. When Design Professional submits the Schematic Design Documents, Design Professional shall identify in writing, for Construction Manager's review and Owner's approval, all material changes and deviations that have taken place from Design Professional's approved preliminary estimate of the Cost of Construction and Project Schedule.

3.2.4 DESIGN DEVELOPMENT DOCUMENTS Based on the approved Schematic Design Documents and the updated estimate of the Cost of Construction and Project Schedule, Design Professional shall prepare, for Construction Manager's review and Owner's approval, Design Development Documents. The Design Development Documents shall further define the Project, including drawings and outline specifications fixing and describing the Project size, character, and site relationships, and other appropriate elements describing the structural, architectural, mechanical, and electrical systems. Design Development Documents shall include, as applicable, plans, sections, and elevations; criteria



and sizing of major components; equipment sizes and capacities and approximate layouts, including required spaces and clearances; typical details; materials selections; and general quality levels. When Design Professional submits the Design Development Documents, Design Professional shall identify in writing, for Owner's approval, all material changes and deviations that have taken place from the Schematic Design Documents and the previously approved estimate of the Cost of Construction and Project Schedule. Unless documents are required to be transmitted in electronic form, two printed sets and one reproducible set of Design Development Documents shall be provided to Owner for its review and for distribution to Construction Manager.

3.2.5 CONSTRUCTION DOCUMENTS Based on the approved Design Development Documents and updated estimate of the Cost of Construction and Project Schedule, Design Professional shall prepare, for Construction Manager's review and Owner's approval and the approval of governmental authorities, Construction Documents, including any revisions necessary to secure such approvals, setting forth in detail the quality levels of and the requirements for construction of the Project, and consisting of drawings and specifications that comply with applicable Laws. When Design Professional submits the Construction Documents, Design Professional shall identify in writing, for Owner's approval, all material changes and deviations that have taken place from the Design Development Documents and the previously approved estimate of the Cost of Construction and Project Schedule. The Construction Documents shall describe all Work necessary to bid and construct the Project. Unless documents are required to be transmitted in electronic form, two printed sets and one reproducible set of the Construction Documents shall be provided to Owner for its review and for distribution to Construction Manager.

3.2.6 DESIGN COORDINATION Design Professional shall coordinate the Services of all design consultants for the Project, including those retained by Owner. Design Professional shall promptly report any known errors or omissions to Owner. However, unless retained by Design Professional or Consultant, Design Professional does not assume an affirmative responsibility to detect errors, omissions, or inconsistencies in the design consultant's services.

3.2.7 LONG-LEAD-TIME ITEMS Design Professional shall assist Owner to evaluate a schedule prepared by Construction Manager for the procurement of known long-lead-time items required to meet the Project Schedule.

3.2.8 BIDDING OR NEGOTIATION ASSISTANCE Design Professional shall assist Owner to evaluate Construction Manager's recommendations regarding the division of the Work into Trade Contractor Bid packages or proposals. Design Professional shall provide up to six (6) sets of drawings, specifications, and any addenda; attend pre-bid and pre-award meetings; provide information and explanations to clarify the scope and intent of the Construction Documents; and, if appropriate, evaluate proposed Trade Contractors, Subcontractors, and Suppliers for portions of the Work. Design Professional shall issue any required addenda or clarifications promptly in writing.

3.2.8.1 If the cumulative value of lowest bona fide bids or negotiated proposals for the Work exceeds the final approved estimate of the Cost of Construction by three percent (3%) or more, and Owner, in its sole discretion, elects not to accept such bids or proposals, or elects to rebid or renegotiate any portion of the Work, Design Professional, without additional compensation, shall work with Construction Manager and Owner to make the necessary modifications to the Construction Documents to reduce the Cost of Construction to an amount less than or equal to the sum of the final approved estimate of the Cost of Construction plus the percentage stated above. In such a circumstance, all impacted schedules shall be adjusted accordingly.



3.2.9 CONSTRUCTION PHASE SERVICES The Construction Phase will commence upon the earlier of (a) the first award of or authorization for Construction Manager to award a Trade Contract and (b) such other date as the Parties agree. Such award or authorizations by Owner shall be issued with contemporaneous notification to Design Professional. If requested by Owner, Design Professional shall (i) assist the Construction Manager to review the schedule of values submitted by the Trade Contractors; (ii) prepare design documents in connection with change orders; and (iii) respond to requests for information. Design Professional shall furnish, upon request, to Owner and to Construction Manager interpretations and clarifications of the drawings and specifications, by means of additional drawings, addenda, or otherwise, as necessary for the proper execution and progress of the Work. All such interpretations and clarifications shall be consistent with the intent of the Construction Documents and reasonably inferable from them.

3.2.9.1 SUBMITTALS Design Professional shall collaborate with Construction Manager to establish and implement procedures for expediting the processing and approval of shop drawings and samples. Design Professional shall review the Trade Contractors' submittals and make approvals of or recommendations about such submittals to Construction Manager and Owner within ten (10) Days of receiving the submittals from Construction Manager, or as soon as practicable as agreed upon by the Parties. Design Professional shall check the Trade Contractors' submittals for general conformance with the design and scope of the Project and for compliance with the Construction Documents. Design Professional shall be entitled to rely on the accuracy and completeness of any professional certifications required by the Construction Documents of Trade Contractors concerning the performance criteria of systems, equipment, or materials, including all calculations relating thereto and any governing performance requirements. Design Professional's review of submittals shall not extend to the Trade Contractors' means, methods, techniques, sequences, or procedures, unless such means, methods, techniques, sequences, or procedures have been specified by Design Professional.

3.2.9.2 Upon request of Owner, Design Professional shall assist Construction Manager and Owner to evaluate and process requests for changes in the Work.

3.2.9.3 WORKSITE VISITS Design Professional shall visit the Worksite pursuant to such schedule as the Parties may establish by attachment of Exhibit A, to become generally familiar with the quality of the Work and to determine in general if the Work is proceeding in accordance with the Construction Document. After each Worksite visit, Design Professional shall promptly provide Owner with a written report. If Design Professional becomes aware of any defects or deficiencies in the Work, Design Professional shall provide prompt notice, followed by written confirmation, to Owner. If, in Design Professional's opinion, special testing or inspection of the Work is needed, Design Professional shall recommend to Owner such testing or inspection procedures and appropriate consultants to Construction Manager. Design Professional shall not be responsible for construction means, methods, techniques, sequences, and procedures, unless they are specified by Design Professional, or for ensuring that the Work is in accordance with the Construction Documents.

3.2.9.4 SAFETY Design Professional shall not be responsible for the Trade Contractors' safety precautions and programs. However, if Design Professional has actual knowledge of safety violations, Design Professional shall give prompt written notice to Owner and Construction Manager. While at the Worksite, Design Professional shall comply with the safety programs of the Construction Manager and the Trade Contractors.

3.2.9.5 Upon request of Owner, Design Professional shall assist Construction Manager in processing the Trade Contractors' applications for payment.



3.2.9.6 Design Professional shall participate in regular meetings with Owner and Construction Manager upon reasonable request of Owner or Construction Manager.

3.2.9.7 Design Professional shall assist Owner and Construction Manager to conduct regular inspections to determine the date or dates of each Trade Contractor's Substantial Completion of the Work. Such assistance shall include compiling a list of items to be completed or corrected so that Owner may occupy or utilize the Work or a designated portion for its intended use or so that any subsequent Trade Contractor can commence its work.

3.2.9.8 Design Professional shall assist Owner and Construction Manager to conduct inspections to determine Trade Contractor's Final Completion of the Work as needed.

3.2.9.9 COMMISSIONING Design Professional shall assist with the implementation of formal commissioning.

3.2.9.10 If requested by Owner, Design Professional shall make up to two (2) visits to the Worksite during each Trade Contractor's one-year correction period to assist Owner in evaluating the need for any corrective measures.

3.2.10 HAZARDOUS MATERIAL To the extent not identified in this Agreement, if a Hazardous Material is discovered at the Worksite, Design Professional shall not be required to perform Services relating to or in the area of the Hazardous Material without written mutual agreement.

3.3 ADDITIONAL SERVICES The following Services shall be provided by Design Professional and paid for as Additional Services, if they are authorized in advance by Owner in writing and are not included in Basic Services as set forth in Sections 3.1 and 3.2:

3.3.1 Assistance with the preparation of Owner's Program and planning surveys.

3.3.2 Surveys, site evaluations, legal descriptions, and aerial photographs.

3.3.3 Soils, subsurface, and environmental studies, reports, and investigations required for submission to governmental authorities or others having jurisdiction over the Project.

3.3.4 Document reproduction exceeding the limits provided for under section 3.2.

3.3.5 Preparing measured drawings of existing conditions.

3.3.6 Artistic renderings, models, and mockups of the Project or any part of the Project.

3.3.7 Inventories of existing furniture, fixtures, furnishings, and equipment which might be under consideration for incorporation into the Project.

3.3.8 Interior design and related Services, including procurement and placement of furniture, furnishings, artwork, and decorations.

3.3.9 Other than as required by subsection 3.2.8, making revisions to the Schematic Design, Design Development, or Construction Documents after they have been approved by Owner, and which are due to causes beyond the control of Design Professional.



3.3.10 Design, coordination, management, expediting, and other Services supporting the procurement of materials to be obtained or work to be performed by Owner, including but not limited to telephone systems, computer wiring networks, sound systems, alarms, security systems, and other specialty systems which are not otherwise required by this Agreement.

3.3.11 Estimates, proposals, appraisals, consultations, negotiations, and Services in connection with the repair or replacement of an insured loss.

3.3.12 Obtaining service contractors and training maintenance personnel or assisting and consulting in the use of systems and equipment after the initial startup.

3.3.13 Serving or preparing to serve as an expert witness in connection with any proceeding, legal or otherwise, regarding the Project in which Design Professional is not a party.

3.3.14 Preparing reproducible record drawings from marked-up prints, drawings, or other documents that incorporate significant changes made during the Construction Phase.

3.3.15 Worksite visits in excess of the number of visits provided for in subsections 3.2.9.3, 3.2.9.7-3.2.9.8 or the number of visits in a schedule established by attachment to this Agreement.

3.3.16 Attending meetings in excess of those provided for in subsection 3.2.9.6.

3.3.17 Providing Services relating to Hazardous Materials discovered at the Worksite.

3.3.18 Consultations and representations before governmental authorities or others having jurisdiction over the Project, other than normal assistance in securing building permits.

3.3.19 Out-of-town travel by Design Professional in connection with the Services, except between Design Professional's office, Owner's office, and the Worksite.

3.3.20 Services requested by Owner which are not included in the Basic Services required by this Agreement and that are not normally part of generally accepted design and construction practice.

3.3.21 Furnishing services related to the suspension of Work.

3.3.22 Performing formal commissioning services.

3.3.23 Except as otherwise provided in this Agreement or required for the purpose of maximizing the scope of the Project within the budget described in the Owner's Program, preparing alternate bid documents after completion of Schematic Design Documents.

3.3.24 Other additional services as agreed to by the Parties and identified in an attached exhibit or modification to this Agreement.

3.4 QUALIFICATIONS Design Professional warrants and represents that Design Professional and its Consultants are duly qualified, licensed, registered, and authorized by law to perform the Services under this Agreement.



3.5 CONSULTANTS Design Professional shall not engage the Services of any Consultant without first obtaining Owner's written approval, which approval shall not be unreasonably withheld. Such approval by Owner shall not be deemed to create any contractual relationship between Owner and any such Consultant, except that Owner shall be considered the intended third-party beneficiary of the performance of their Services. Except for the waiver required under Subsection 7.3.2, Design Professional shall not include any limits of liability in its agreements with any Consultants without the prior written approval of Owner.

3.6 DESIGN PROFESSIONAL'S REPRESENTATIVE Design Professional's representative is Rick Bugatsch, who shall possess full authority to receive and act on instructions from Owner. If Design Professional changes its representative or their authority, Design Professional shall immediately notify Owner in writing.

3.7 KEY PROJECT PERSONNEL The key Project personnel whom Design Professional shall assign and the time percentage each shall devote to Design Professional's Services. Such personnel shall not be changed without the written approval of Owner, which approval shall not be unreasonably withheld.

3.8 FINANCIAL INFORMATION Prior to commencement of Services, and thereafter, Design Professional shall have the right, upon written request, to receive from Owner evidence of Owner's financial ability to pay for Design Professional's Services. Evidence of Owner's financial ability to pay for Services shall be a condition precedent to Design Professional commencing or continuing Services. Design Professional shall be notified prior to any material change in Owner's ability to pay for Services.

3.9 ROYALTIES, PENALTIES, AND COPYRIGHTS Design Professional shall pay all royalties and license fees which may be due on the inclusion of any patented or copyrighted materials, methods, or systems selected by Design Professional and incorporated in the design documents of Design Professional. Design Professional warrants that it possesses the copyright or permission to use the copyright of materials, methods, or systems selected by Design Professional and incorporated in the design documents of Design Professional. Design Professional shall defend and hold Owner, Construction Manager, Trade Contractors, and Subcontractors harmless from all suits or claims for infringement of any patent rights or copyrights arising out of such selection.

3.10 CONFIDENTIALITY Design Professional shall treat as confidential and not disclose to any third parties, except as necessary for the performance of this Agreement or as required by Law, or use for its own benefit, any of Owner's confidential information, know-how, discoveries, production methods, and the like that are so identified in writing and disclosed to Design Professional or which Design Professional acquires in performing the Services required by this Agreement. Except for information Owner obtains through ownership of the copyright, Owner shall treat as confidential information all proprietary design systems and methods that may be disclosed to Owner in connection with the performance of this Agreement. Owner and Design Professional shall each specify those items to be treated as confidential and shall mark them as "Confidential."

ARTICLE 4 OWNER'S RESPONSIBILITIES

4.1 INFORMATION AND SERVICES PROVIDED BY OWNER

4.1.1 To the extent Owner has obtained the information and Services identified below, Owner shall provide them to Design Professional in a timely manner. Design Professional shall be entitled to rely on the completeness and accuracy of such information and Services.



4.1.1.1 Information describing the physical characteristics of the Worksite, including surveys, Worksite evaluations, legal descriptions, existing conditions, subsurface and environmental studies, reports and investigations, all as set forth in Exhibit A.

4.1.1.2 Inspection reports and testing Services conducted during construction as required by law or as mutually agreed.

4.1.1.3 Unless otherwise provided in this Agreement, documentation evidencing any necessary approvals, site plan review, rezoning, easements and assessments, fees and charges required for the construction, use, occupancy, or renovation of permanent structures.

4.1.2 The information required by subsection 4.1.1 shall be provided in reasonable detail. Legal descriptions shall include easements, title restrictions, boundaries, and zoning restrictions. Worksite descriptions shall include existing buildings and other construction and all other pertinent site conditions. Adjacent property descriptions shall include structures, streets, sidewalks, alleys, and other features relevant to the Work. Utility details shall include available services, lines at the Worksite and adjacent thereto, and connection points. The information shall include public and private information, subsurface information, grades, contours, and elevations, drainage data, exact locations and dimensions, and benchmarks that can be used in laying out the Work.

4.1.3 Owner shall promptly report to Design Professional any errors, inconsistencies, and omissions it discovers in the Construction Documents; however, nothing in this subsection shall relieve Design Professional of responsibility for its own errors, inconsistencies, and omissions.

4.1.4 Approvals by Owner shall not be deemed to be an assumption of responsibility by Owner for any error, inconsistency, or omission in the drawings, specifications, or other documents prepared by Design Professional, its employees, agents, or Consultants. Owner shall provide all approvals required under this Agreement in a timely manner.

4.2 OWNER'S REPRESENTATIVE Owner's representative is Rick Britton, Canyon County Facilities Director. Owner's Representative:

4.2.1 shall be fully familiar with the Project;

4.2.2 shall furnish the information and Services required of Owner pursuant to section 4.1 in a timely manner; and

4.2.3 shall have authority to bind Owner in all matters requiring Owner's approval, authorization, or written notice, but not authority to modify the Agreement. If Owner changes its Representative or the authority of its Representative, Owner shall immediately notify Design Professional in writing.

4.3 TRADE CONTRACTS Owner shall provide Design Professional with copies of all executed Trade Contracts.

4.4 ROYALTIES, PATENTS, AND COPYRIGHTS Owner shall pay all royalties and license fees which may be due on the inclusion of any patented or copyrighted materials, methods, or systems specifically required by Owner to be incorporated in the design documents of Design Professional. Owner warrants that it possesses the copyright or permission to use the copyright of materials, methods, or systems required by Owner to be incorporated in the design documents of Design Professional. Owner agrees to defend and hold Design Professional harmless from any suits or claims of infringement of any patent rights or copyrights



arising out of any patented or copyrighted materials, methods, or systems required by Owner or used by the Trade Contractor but not required by Owner or Design Professional.

ARTICLE 5 TIME

5.1 TIME FOR SERVICES Time is of the essence. Subject to the applicable standard of care, Design Professional shall provide the Services required by this Agreement in a timely manner and in conformance with the most recent Project Schedule approved by Owner. If completion of Construction Documents is not achieved within this time through no fault of Design Professional, Design Professional's Fee shall be equitably adjusted.

5.2 DELAYS BY DESIGN PROFESSIONAL If the progress or completion of the Project is delayed by reason of any error, inconsistency, or omission of Design Professional which deviates from its standard of care, Design Professional shall compensate Owner for and indemnify it against all damages that may accrue as a result of negligent delay. In addition, Design Professional shall provide Services at its own cost, including any overtime costs and expenses, required to make up time lost to Owner because of such delay. Owner shall provide prompt written notice to Design Professional of such delay after Owner first recognizes the delay.

5.3 DELAYS BY OWNER If Design Professional is delayed in the performance of its Services by any act or omission of Owner, or by changes ordered by Owner which are due to causes beyond Design Professional's control, or by a delay authorized by Owner pending dispute resolution, then the time allotted in the Project Schedule for Design Professional's Services shall be extended for the period of such delay or Owner shall authorize Design Professional to work overtime to make up such lost time, and Design Professional's compensation shall be equitably adjusted. Design Professional shall provide prompt written notice to Owner of such delay after Design Professional first recognizes such delay.

ARTICLE 6 COMPENSATION AND PAYMENTS

6.1 COMPENSATION FOR BASIC SERVICES

6.1.1 For Basic Services as described in Sections 3.1 and 3.2, the Owner shall compensate the Design Professional the amount of 7.5 % (seven and one half percent) of the cost of the Work.

6.2 ADDITIONAL SERVICES AND REIMBURSABLE EXPENSES

6.2.1 Design Professional shall be compensated for Additional Services as described in Section 3.3 on the following basis: hourly rate reimbursement as provided by the Design Professional prior to commencement of additional services, or as approved by Owner.

6.2.2 Design Professional shall be compensated for the Reimbursable Expenses at actual cost, or as agreed upon by the Owner and Design Professional.

6.3 PAYMENTS

Design Professional shall submit to Owner for its approval monthly applications for payment for Basic and Additional Services and Reimbursable Expenses, if any, with reasonable supporting detail. Owner shall pay approved amounts no later than thirty (30) Days after Design Professional has submitted its applications for payment. Upon receipt of payment from Owner, Design Professional shall promptly make payment to its Consultants as appropriate.



6.3.1 Prior to final payment to Design Professional, Design Professional shall furnish evidence satisfactory to Owner that there are no claims, obligations, or liens outstanding in connection with its Services. Acceptance of final payment shall constitute a waiver of all claims by Design Professional for compensation for its Services.

6.3.2 Should there be any claim, obligation, or lien asserted before or after final payment is made that arises from Design Professional's Services, the Design Professional shall reimburse Owner for any costs and expenses, including attorneys' fees, costs, and expenses, incurred by Owner in satisfying, discharging, or defending against any such claim, obligation, or lien, including any action brought or judgment recovered, provided Owner is making payments or has made payments to Design Professional in accordance with the terms of this Agreement.

6.3.3 Should Design Professional or its Consultants cause damage to the Project, or fail to perform or otherwise be in default under the terms of this Agreement, Owner shall have the right to withhold from any payment due or to become due, or otherwise be reimbursed for, an amount sufficient to protect Owner from any loss that may result. Payment of the amount withheld shall be made when the grounds for the withholding have been removed.

6.3.4 Design Professional's expense records shall be maintained in accordance with generally accepted accounting principles and shall be available to Owner at mutually convenient times for all Services to be compensated on the basis of actual cost.

6.3.5 LATE PAYMENT Payments due but unpaid shall bear interest from the date payment is due at the statutory rate at the place of the Project.

ARTICLE 7 INDEMNITY, INSURANCE, AND WAIVERS

7.1 INDEMNITY

7.1.1 INDEMNITY To the fullest extent permitted by Idaho law, Design Professional shall indemnify and hold harmless Owner, Owner's officers, directors, members, consultants, agents, and employees; the Construction Manager; Trade Contractors; Subcontractors; and Others (the Indemnitees) from and against all claims, losses, damages, and liabilities, including reasonable attorneys' fees, costs, and expenses, for bodily injury, sickness, or death, and property damage (other than to the Work itself), that may arise from the performance of or the failure to perform Services under this Agreement, but only to the extent caused by the negligent acts or omissions of Design Professional, Consultants, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable. Design Professional shall be entitled to reimbursement of any defense costs paid above Design Professional's percentage of liability for the underlying claim to the extent provided for under subsection immediately below.

7.1.2 To the fullest extent permitted by Idaho law, Owner shall indemnify and hold harmless Design Professional, its officers, directors, members, Consultants, agents, and employees from all claims for bodily injury and property damage, including reasonable attorneys' fees, costs, and expenses, that may arise from the performance of work by Owner or Others, but only to the extent caused by the negligent acts or omissions of Owner or Others. Owner shall be entitled to reimbursement of any defense costs paid above Owner's percentage of liability for the underlying claim to the extent provided for under the subsection immediately above.

7.1.3 CONSTRUCTION MANAGER AND TRADE CONTRACTOR INDEMNITY Owner shall cause Construction Manager and Trade Contractors to agree to indemnify and hold harmless Owner and



Design Professional from all claims for bodily injury and property damage, other than to the Work itself and other property insured under Section 7.3, that may arise from Construction Manager's Services or the Trade Contractors' Work, but only to the extent that such claims result from the negligent acts or omissions of Construction Manager or the Trade Contractors, respectively, or anyone for whose acts or omissions Construction Manager or the Trade Contractors, respectively, are liable.

7.1.4 NO LIMITATION ON LIABILITY In any and all claims against the Indemnitees by any employee of Design Professional, anyone directly or indirectly employed by Design Professional or anyone for whose acts Design Professional may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Design Professional under Workers' Compensation acts, disability benefit acts, or other employee benefit acts.

7.2 DESIGN PROFESSIONAL INSURANCE

7.2.1 Before commencing its Services and as a condition of payment, Design Professional shall purchase and maintain such insurance as will protect it from claims arising out of the performance of its Services under this Agreement, whether such Services are provided by Design Professional or by any of its Consultants or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

7.2.2 Design Professional shall maintain in effect all insurance coverage required under this Section 7.2 with insurance companies lawfully authorized to do business in the jurisdiction in which the Project is located and which is reasonably satisfactory to Owner:

7.2.2.1 Workers' Compensation and Employers' Liability Insurance in accordance with Laws and wherever Design Professional's Services are being performed.

7.2.2.2 Commercial General Liability Insurance, including contractual liability insurance for the liability assumed in Subsection 7.1.1, with at least the following limits of liability:

- a. \$1,000,000 Per Occurrence.
- b. \$2,000,000 General Aggregate
- c. \$2,000,000 Products/Completed Operations Aggregate
- d. \$1,000,000 Personal and Advertising Injury Limit.

7.2.3 Design Professional shall require its Consultants to maintain Commercial General Liability and Business Automobile Liability coverage with a company satisfactory to Owner and with limits acceptable to Owner.

PROFESSIONAL LIABILITY INSURANCE Design Professional shall maintain Professional Liability Insurance with a company satisfactory to Owner, whose approval shall not be unreasonably withheld, for claims arising from the negligent performance of professional Services under this Agreement, which shall be written for not less than \$2,000,000 (two million) per claim and in the aggregate. The Professional Liability Insurance shall contain prior acts coverage sufficient to cover all Services performed by Design Professional for this Project. The deductible shall be paid by Design Professional.

7.2.4 Consultants retained by Design Professional for this Project shall maintain Professional Liability Insurance with a company for claims arising from the negligent performance of its professional Services, which shall be either:



Practice Policy, or
 Project Specific Coverage

The Professional Liability Insurance shall contain prior acts coverage sufficient to cover all Services performed by Consultants for this Project.

7.2.5 Design Professional shall furnish to Owner certificates of insurance evidencing the required coverages listed in this section and a copy of its Professional Liability policy. No policy shall be cancelled or modified without thirty (30) Days prior written notice to Owner. Such requirement for prior written notice does not apply to modifications caused by claims made against the policy. Design Professional and its Professional Liability insurance carrier shall notify Owner within thirty (30) Days of any claims made or loss expenses incurred against the Professional Liability policy. Owner shall have the right to directly notify Design Professional's Professional Liability insurance carrier of a claim against the policy. The Professional Liability policies shall be continued in effect for two (2) years following final payment to Design Professional.

7.3 PROPERTY INSURANCE

7.3.1 Owner shall provide, or cause Construction Manager to provide, property insurance that names Design Professional and its Consultants as named additional insureds. Owner shall furnish to Design Professional certificates of insurance evidencing such coverage.

7.3.2 Owner and Design Professional waive all rights against each other and the Trade Contractor, Subcontractors, and Subsubcontractors for loss or damage to the extent covered by property insurance, except such rights as they may have to the proceeds of such insurance. Owner and Design Professional shall require similar waivers from all of their consultants retained for the Project.

ARTICLE 8 TERMINATION

8.1 TERMINATION BY EITHER PARTY Should either Party be in material breach of this Agreement, the other Party may give written notice to the breaching Party that it intends to terminate this Agreement for default absent appropriate corrective action upon seven (7) Days from receipt. Upon such time and absent appropriate corrective action, the non-breaching party may terminate this Agreement in writing.

8.2 TERMINATION BY OWNER FOR CONVENIENCE Upon seven (7) Days' written notice, Owner may, without cause, terminate this Agreement with Design Professional. If this Agreement is terminated pursuant to this section, Design Professional may recover from Owner (a) payment for Services performed to the date of termination, in accordance with this Agreement; and (b) any proven loss, cost or expense in connection with the Services, including those resulting from the termination, but not including lost profits on unperformed Services.

ARTICLE 9 DISPUTE MITIGATION AND RESOLUTION

9.1 CONTINUANCE OF SERVICES AND PAYMENT Unless otherwise agreed in writing, Design Professional shall continue to perform its Services during any dispute mitigation or resolution proceeding. If Design Professional continues to perform, Owner shall continue to make payments in accordance with this Agreement for amounts not in dispute.

9.2 DIRECT DISCUSSIONS If the Parties cannot reach resolution on a matter relating to or arising out of the Agreement, the Parties shall endeavor to reach resolution through good faith direct discussions between the Parties' representatives, who shall possess the necessary authority to resolve such matter and who



shall record the date of first discussions. If the Parties' representatives are not able to resolve such matter within five (5) Business Days of the date of first discussion, the Parties' representatives shall immediately inform senior executives of the Parties in writing that resolution was not affected. Upon receipt of such notice, the senior executives of the Parties shall meet within five (5) Business Days to endeavor to reach resolution. If the dispute remains unresolved after fifteen (15) Business Days from the date of first discussion, the Parties shall submit such matter to the dispute mitigation and dispute resolution procedures selected herein.

9.3 MEDIATION If direct discussions pursuant to Section 9.2 do not result in resolution of the matter and no dispute mitigation procedure is selected, the Parties shall endeavor to resolve the matter by mediation. The administration of the mediation shall be as mutually agreed by the Parties. The mediation shall be convened within thirty (30) Days of the matter first being discussed and shall conclude within forty-five (45) Business Days of the matter first being discussed. Either Party may terminate the mediation at any time after the first session by written notice to the non-terminating Party and mediator. The costs of the mediation shall be shared equally by the Parties. The Parties may mutually agree to forego mediation based on a written agreement that other methods, including binding dispute resolution, are more likely to be effective, or that mediation would not be beneficial to either party.

9.4 BINDING DISPUTE RESOLUTION If the matter remains unresolved after submission of the matter to mediation, the Parties shall submit the matter to the binding dispute resolution procedure selected below:

Arbitration. [The Parties do not agree to binding arbitration in this document, but leave open the possibility to arbitration if agreed to in writing by all involved parties.]

Litigation in either the state or federal court having jurisdiction of the matter in the location of the Project.

9.4.1 COSTS The costs of any binding dispute resolution processes and reasonable attorneys' fees shall be determined according to Idaho law.

9.4.2 VENUE The venue of any binding dispute resolution procedure shall be the location of the Project unless the Parties agree on a mutually convenient location.

9.4.3 An award entered in an arbitration proceeding pursuant to this Agreement shall be final and binding upon the Parties, and judgment may be entered upon an award in any court having jurisdiction.

9.5 MULTIPARTY PROCEEDINGS The Parties agree that all parties necessary to resolve a claim shall be parties to the same dispute resolution procedure. Appropriate provisions shall be included in all other contracts relating to the Project to provide for the joinder or consolidation of such dispute resolution procedures.

9.6 LIEN RIGHTS Nothing in this article shall limit any rights or remedies not expressly waived by Design Professional that Design Professional may have under lien laws.

ARTICLE 10 MISCELLANEOUS

10.1 OWNERSHIP OF TANGIBLE DOCUMENTS Owner shall receive ownership of the property rights, except for copyrights, of all documents, drawings, specifications, electronic data, and information (hereinafter "Documents") prepared, provided or procured by Design Professional or by Consultants retained by Design Professional and distributed to Owner for this Project, upon the making of final payment

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CONTENT SECURE ID: 8BECCD09-4BF9
CONTENT SECURE ID: EA52EAC4-621E

to Design Professional or in the event of termination under ARTICLE 8, upon payment for all sums due to Design Professional pursuant to ARTICLE 8.

10.1.1 COPYRIGHT The Parties agree that Owner [x] shall/ [] shall not obtain ownership of the copyright of all Documents. Owner's acquisition of the copyright by Owner shall be subject to Owner's making of all payments required by this Agreement. If the Parties have not made a selection to transfer copyright interests in the Documents, the copyright shall remain with Design Professional.

10.1.2 USE OF DOCUMENTS IN EVENT OF TERMINATION In the event of a termination of this Agreement pursuant to ARTICLE 8, Owner shall have the right to use, to reproduce, and to make derivative works of the Documents to complete the Project, regardless of whether there has been a transfer of copyright under Subsection 0, provided payment has been made pursuant to ARTICLE 8.

10.1.3 OWNER'S USE OF DOCUMENTS AFTER COMPLETION OF PROJECT After completion of the Project, if Design Professional has retained the copyright, Owner may still reuse, reproduce, or make derivative works from the Documents solely for the purposes of maintaining, renovating, remodeling, or expanding the Project at the Worksite. Regardless of which Party owns the copyright, Owner's use of the Documents without Design Professional's involvement or on other projects is at Owner's sole risk, except for Design Professional's indemnification obligations pursuant to Section 3.9, and Owner shall defend, indemnify, and hold harmless Design Professional and its consultants, and the agents, officers, directors, and employees of each of them, from and against any and all claims, damages, losses, costs, and expenses, including reasonable attorneys' fees and costs, arising out of or resulting from such any prohibited use.

10.1.4 DESIGN PROFESSIONAL'S USE OF DOCUMENTS Where Design Professional has transferred its copyright interest in the Documents under Subsection 0, Design Professional may reuse Documents prepared by it pursuant to this Agreement in its practice, but only in their separate constituent parts and not as a whole.

10.1.5 Design Professional shall obtain from its Consultants rights and rights of use that correspond to the rights given by Design Professional to Owner in this Agreement and Design Professional shall provide evidence that such rights have been secured.

10.2 DOCUMENTS IN ELECTRONIC FORM If Owner requires that Owner, Design Professional, Construction Manager, and Trade Contractors exchange documents and data in electronic or digital form, prior to any such exchange, Owner, Design Professional, Construction Manager, and Trade Contractors shall agree on a written protocol governing all exchanges using ConsensusDocs 200.2 or a separate agreement, which, at a minimum, shall specify: (a) the definition of documents and data to be accepted in electronic or digital form or to be transmitted electronically or digitally; (b) management and coordination responsibilities; (c) necessary equipment, software, and Services; (d) acceptable formats, transmission methods, and verification procedures; (e) methods for maintaining version control; (f) privacy and security requirements; and (g) storage and retrieval requirements. Except as otherwise agreed to by the Parties in writing, each Party shall bear its own costs for requirements identified in the protocol. In the absence of a written protocol, use of documents and data in electronic or digital form shall be at the sole risk of the recipient. Notwithstanding other provisions in this Agreement, printed documents and sets shall not be required if such documents are required to be prepared and transmitted in electronic form.

10.3 EXTENT OF AGREEMENT Except to the extent expressly provided in this Agreement, this Agreement represents the entire and integrated agreement between Owner and Design Professional and supersedes all prior negotiations, representations, and agreements, either written or oral. This Agreement and each



and every provision are for the exclusive benefit of Owner and Design Professional and not for the benefit of any third party except to the extent expressly provided in this Agreement.

10.4 ASSIGNMENT Except for an assignment of proceeds, Design Professional shall not assign its interest in this Agreement without the written consent of Owner.

10.5 GOVERNING LAW AND VENUE This Agreement shall be governed by the law of the State of Idaho. The venue for any dispute resolution proceeding shall be the Third Judicial District of the State of Idaho in and for Canyon County (for state court actions), or U.S. District Court, District of Idaho (for federal court actions).

10.6 SEVERABILITY The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

10.7 NO WAIVER OF PERFORMANCE The failure of either Party to insist, in any one or more instances, on the performance of any of the terms, covenants, or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition, or right with respect to further performance.

10.8 TITLES The title given to the articles and sections are for ease of reference only and shall not be relied upon or cited for any other purpose.

10.9 JOINT DRAFTING The Parties expressly agree that this Agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms prior to execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

10.10 RIGHTS AND REMEDIES The Parties' rights, liabilities, responsibilities, and remedies with respect to this Agreement, whether in contract, tort, negligence, or otherwise, shall be exclusively those expressly set forth in this Agreement.



GENERAL PROJECT REQUIREMENTS-SCOPE OF WORK

1. Design Professional services include: civil engineering; landscape design; mechanical engineering; fire suppression and alarm design; and structural and electrical engineering.
2. Design Professional will develop drawings/design for a 16,500 square foot building to be the new Canyon County Elections professional office building. This building will be utilized for County elections and voting and must conform to applicable federal and state accessibility laws and securely house ballots and other voting data/documents.
3. The building will be located on a 1.3 parcel adjacent to the West Valley Humane Society on 5801 Graye Lane in Caldwell, Idaho. A preliminary floor plan and preliminary site plan are both included as part of this Exhibit A.
4. The design shall include the following elements:
 - mechanical and electrical systems
 - storage area for elections equipment with a drive-in/pass-through with two (2) large overhead doors
 - green room
 - impound room
 - drop-box secure area
 - early voting area
 - vault enclosed area
 - training room
 - absentee ballot preparation room
 - office space for staff
 - public and employee restrooms
 - appropriate infrastructure and design for IT needs, including network and internet cabling
5. Site development shall include the following elements:
 - paved and striped parking
 - paved area around building
 - landscaping
6. The initial budget estimate for the Project is, four million dollars (\$4,000,000.00), subject to change by the County.
7. The anticipated start date for construction is Fall 2023, with an estimated completion date of Summer 2024 in order for use of building for November 2024 elections.

SCHEDULE & DELIVERABLES

The relevant milestones, completion deadlines, and terms associated with this statement of work ("SOW") will be established in a cooperative effort between Owner, Design Professional and the CM/GC. The following is a template for the use and convenience of the Parties:

Task	Description & Completion Date
Establish Goals	<p>Design Professional shall:</p> <ul style="list-style-type: none"> - meet with County to familiarize and integrate the Design Professional's personnel with County personnel; - establish a protocol of communication; and - Define the process for decision-making. <p>Design Professional and County will jointly review Master Schedule and modify as necessary.</p> <p>Design Professional will review the goals of the project, County's defined needs, and confirm County's priorities for the project.</p> <p align="right">COMPLETION DATE: _____</p>
Assess Site	<p>Design Professional shall assess and evaluate the existing building site systems to gain an understanding of the conditions and potential issues.</p> <p align="right">COMPLETION DATE: _____</p>
Document Preparation	<p>Design Professional shall:</p> <ul style="list-style-type: none"> - prepare design documents for local permitting requirements; and - meet and consult with the relevant government agencies and authorities to develop required documentation such that the agencies will issue the required permits and approval. <p align="right">COMPLETION DATE: _____</p>
Facilitate Permitting	<p>Design Professional shall coordinate with relevant government agencies and authorities to expedite the review and permitting process.</p> <p align="right">COMPLETION DATE: _____</p>
Monitor Construction	<p>Design Professional shall be available for any issues as they arise, and attend regular construction installation meetings (at least bimonthly).</p> <p align="right">COMPLETION DATE: _____</p>
Close Project	<p>Design Professional shall:</p> <ul style="list-style-type: none"> - Conduct a review of the project at substantial completion; - At project closeout, review documentation for final paperwork; and - Facilitate the transition from construction completion to occupancy and the initiation of building systems and operations. <p align="right">COMPLETION DATE: _____</p>