

**KUNA RURAL FIRE DISTRICT STATION NO. 2 CONSTRUCTION PROJECT
CONSTRUCTION CONTRACT**

Parties:

Kuna Rural Fire District	“Fire District”	Mailing PO Box 607 Kuna, Idaho 83634 Street 150 W. Boise St. Kuna, Idaho 83634
	“Contractor”	

Type: Kuna Rural Fire District Station No. 2 Project

This Kuna Rural Fire District Station No. 2 Project Construction Contract, made on the _____ day of _____, 2025, between Kuna Rural Fire District of P.O. Box 607 Kuna, Idaho 83634, a Fire district organized and existing under and by virtue of Chapter 14 of Title 31 Idaho Code _____ (“Fire District”), and _____ (“Contractor ”), a general business corporation in the state of Idaho.

NOW, THEREFORE, in consideration of the mutual terms, covenants, and conditions contained herein and the recitals set forth which are a material part of this Contract, the Parties agree as follows:

**SECTION 1
DEFINITIONS**

- 1.1 Bid:** means and refers to that certain bid dated _____, 2025 accepted by the Fire District Board of Commissioners at their meeting on _____, 2025, a true and correct copy of which is attached hereto marked “**Exhibit A**” submitted by Contractor.
- 1.2 Contractor:** _____ means _____ and _____ refers to _____ (“Contractor”), a general business corporation in the state of Idaho in good standing and Party to this Contract, whose Idaho Contractors Board License number is _____ and Party to this Contract.
- 1.3 Contract:** means and refers to this “Kuna Rural Fire District Station No. 2 Construction Project.”
- 1.4 Contract Award Date:** means and refers to the date this Contract has been executed by both Parties, being _____, 2025.
- 1.5 Contract Plan Documents:** means and refers to the architectural and/or engineering plans which are provided by Dennis Lee Taggart of Encompass Incorporated architect for Kuna Rural Fire District Station No. 2 Project approved by the Fire District Board of

Commissioners as provided in this Contract a true and correct copy of which is attached hereto marked “**Exhibit B**” provided by the Fire District.

1.6 Contract Price: means and refers to the Base Bid amount of _____ AND NO/100’S DOLLARS [\$0.00], and the Bid Alternate No. 1 amount of _____ AND NO/100’S DOLLARS [\$0.00] the sums due and payable to Contractor by the Fire District subject to increase or decrease and payable as provided in this Contract.

1.7 Fire District: means and refers to Kuna Rural Fire District of PO Box 607 Kuna, Idaho 83634, a Fire district organized and existing under and by virtue of Chapter 14 of Title 31 Idaho and Party to this Contract.

1.8 Parties: means and refers to the Fire District and Contractor.

1.9 Real Property: means that certain real property located at 2021 W. Kuna Rd. Kuna, Idaho 83634 which is located in the Ada County, state of Idaho, more particularly described as follows to wit:

A parcel of land being a portion of Lots 30 and 31 of Rader and Kroeger’s Subdivision (Book 5 of Plats, Page 205, Records of Ada County, Idaho), further situated in a portion of the Northwest 1/4 of the Northeast 1/4 of Section 27, Township 2 North, Range 1 West, Boise Meridian, Ada County, Idaho and being more particularly described as follows:

Commencing at a brass cap marking the Northeast corner of said Section 27, which bears S89°41'25"E a distance of 2,654.34 feet from a brass cap marking the North 1/4 corner of said Section 27;
Thence following the northerly line of said Northeast 1/4 of Section 27, N89°41'25"W a distance of 2,298.28 feet;
Thence leaving said northerly line, S00°18'35"W a distance of 33.00 feet to a 5/8-inch rebar on the southerly right-of-way line of W. Kuna Road and being the **POINT OF BEGINNING**.

Thence following said southerly right-of-way line, S89°41'25"E a distance of 301.11 feet to a 5/8-inch rebar;
Thence leaving said southerly right-of-way line, S00°18'35"W a distance of 289.40 feet to a 5/8-inch rebar;
Thence N89°39'18"W a distance of 301.11 feet to a 5/8-inch rebar;
Thence N00°18'35"E a distance of 289.22 feet to the **POINT OF BEGINNING**.

Said parcel contains 2.00 acres, more or less, and is subject to all existing easements and/or rights-of-way of record or implied.

SECTION 2 RECITALS

The Parties recite and declare:

2.1 The Fire District seeks to complete the Kuna Rural Fire District Station No. 2 Project as specified in the Contract Plan Documents of the Fire District’s Fire building located upon the Real Property; and

2.2 Contractor is a qualified bidder and was the successful bidder; and

- 2.3 The Fire District seeks to complete the construction of the Kuna Rural Fire District Station No. 2 Project in accordance with the Contract Plan Documents; and
- 2.4 Contractor is willing and desirous of constructing the Kuna Rural Fire District Station No. 2 Project in accordance with the provisions of this Contract and the Contract Plan Documents in consideration for the Contract Price.
- 2.5 Contractor holds the necessary Public Works Construction License in the state of Idaho to enter into this Contract and complete this construction project.

**SECTION 3
DESIGN REQUIREMENTS AND SITE INFORMATION**

- 3.1 The design of the Kuna Rural Fire District Station No. 2 Project as provided in the Contract Plan Documents was by a duly licensed architect in the state of Idaho being Dennis Lee Taggart Architect which are the Contract Plan Documents as defined in this Contract.

**SECTION 4
RIGHTS AND OBLIGATIONS OF CONTRACTOR**

- 4.1 Contractor will perform and be responsible for the construction of the Kuna Rural Fire District Station No. 2 Project including work to be performed by its subcontractors, if any, in accordance with and as specified in the Contract Plan Documents, Contract and the Bid.
- 4.2 Contractor shall be responsible for supervision and coordination of the Work, including the construction means, methods, techniques, sequences and procedures utilized, unless the Contract Plan Documents give other specific instructions.
 - 4.2.1 Contractor is to include all labor and approved materials, appliances and services of every kind necessary for proper execution of work.
 - 4.2.2 Contractor shall re-execute any work that fails to conform to the requirements of the contract. Contractor will remove all of its construction debris from the site and leave premises in broom-clean condition.
 - 4.2.3 All work shall be completed in a workmanship-like manner and in compliance with all codes and other applicable laws.
 - 4.2.4 To the extent required by law, all work shall be performed by individuals duly licensed and authorized by law to perform said work.
 - 4.2.5 Contractor has the right to let other contracts in connection with the work contracted for.
 - 4.2.6 Contractor shall adequately protect the work, adjacent property, and the public; and shall be responsible for any damage or injury due to Contractor's acts or

neglect.

- 4.3 In order to facilitate its responsibilities for completion of the work in accordance with and as reasonably inferable from the Contract Plan Documents.
- 4.4 **Safety:** Contractor shall have overall responsibility for safety precautions and programs in the performance of the Work, except that Contractor's subcontractors shall also be responsible for the safety of persons or property in the performance of their work, and for compliance with the provisions of applicable laws and regulations. Contractor shall seek to avoid injury, loss, or damage to persons or property by taking reasonable steps to protect its employees and other persons at the worksite; materials and equipment stored at on-site or off-site locations for use in the Work; and property located at the site and adjacent to work areas, whether or not the property is part of the Work.
- 4.5 **Materials brought to the Worksite:** Contractor shall be responsible for the proper delivery, handling, application, storage, removal and disposal of all materials and substances brought to the Worksite by Contractor in accordance with the Contract Plan Documents and used or consumed in the performance of the Work. In the event there are Fire District supplied material and substances, the same are not Contractor's responsibility unless noted in the Contract Plan Documents.
- 4.6 **Cleaning Up:** Contractor shall regularly remove debris and waste materials at the Worksite resulting from the Work. Prior to discontinuing work in an area, Contractor shall clean the area and remove all rubbish and its construction equipment, tools, machinery, waste and surplus materials. Contractor shall minimize and confine dust and debris resulting from construction activities. At the completion of the Work, Contractor shall remove from the Worksite all construction equipment, tools, surplus materials, waste materials and debris.
- 4.7 **Subcontracts:** Work not performed by Contractor with its own forces shall be performed by subcontractors. Contractor agrees to bind every subcontractor and material supplier (and require every subcontractor to so bind its subcontractors and material suppliers) to all the provisions of this Contract and the Design Documents as they apply to the subcontractors' and material suppliers' portions of the Work.

SECTION 5 INDEPENDENT CONTRACTOR RELATIONSHIP

- 5.1 In the performance of the work contemplated under this Contract, Contractor is an independent contractor with the authority to control and direct the performance of the details of the work, the Fire District being interested only in the results obtained.
- 5.2 Contractor shall comply with all laws, rules, and regulations, which may now or later apply to Contractor's business, equipment and personnel engaged in operations covered by this Contract or accruing out of the performance of such operations.

- 5.3 The actual performance and superintendence of all work under this Contract shall be by Contractor, but the Fire District may designate representatives who shall at all times have access to the Real Property and worksite for the purpose of observing tests or inspecting the work performed by Contractor in order to judge whether, in the Fire District's opinion, such work is being performed by Contractor in accordance with the provisions of this Contract. Such representatives shall be empowered to act for the Fire District in all matters relating to Contractor's performance of the work undertaken under this Contract.

SECTION 6 RESPONSIBILITY FOR LOSS OR DAMAGE

- 6.1 **Kuna Rural Fire District Station No. 2 Project Facility and Equipment risk of loss.** Contractor shall assume liability and risk of loss at all times until completion and acceptance of the work by the Fire District for damage to or destruction of the portion of the Fire that is associated with the Kuna Rural Fire District Station No. 2 Project facilities and construction materials and Contractor's equipment regardless of when or how such damage or destruction occurs, and the Fire District shall be under no liability to reimburse Contractor for any such loss except loss or damage caused by negligence or willful acts or omissions of the Fire District or its agents, servants or employees.
- 6.2 **Indemnity by Contractor:** Contractor agrees to protect and indemnify the Fire District against all claims, demands and causes of action in favor of Contractor's employees or third Parties for personal injuries or death or for property damage (other than property damage specifically provided for in this section) arising out of the work to be performed by Contractor under this Contract and resulting from the negligent acts or omissions of Contractor's agents, employees and subcontractors.

SECTION 7 INSURANCE

- 7.1 During the life of this Contract, Contractor at its expense shall maintain, with an insurance company or companies authorized to do business in the state of Idaho and which company is satisfactory to Fire District, insurance coverage of the kind and in the amounts set forth herein as follows:
- 7.1.1 **Liability.** Successful Bidder shall maintain the following liability coverage insurance policy covering the construction site and Contractor's performance of the Contract against bodily or personal injury, death, or property damage, or other loss as a result of any one (1) occurrence or accident with a responsible insurance company, all at the sole cost and expense of the Contractor, in the names and for the benefit of the Contractor and the Kuna Rural Fire District in the sums of:
- General Liability insurance \$1,000,000.00 per occurrence aggregate limit single-limit \$3,000,000.00; and
 - Commercial Auto Liability insurance \$1,000,000.00 per accident; and
 - Umbrella or Excess Liability aggregate limit \$5,000,000.00

7.1.2 Builder's Risk Insurance: The Contractor shall provide and maintain Builder's Risk Insurance with policy limits equal to or exceeding that amount of \$ _____ which is the amount of the Contractor's bid as accepted by the Fire District.

7.1.3 Workers' Compensation: Contractor will provide and maintain, for all its employees engaged in work under this Contract, Workers' Compensation insurance as required by I.C. § 72-301. In the event any part of the work to be performed under this Contract is sublet on a fixed-fee basis, the same protection concerning Workers' Compensation shall be provided for employees of the subcontractors under all fixed-fee subcontracts. In cases where the whole or any part of the work to be performed under this Contract is sublet on a lump-sum basis, Contractor shall require all subcontractors to maintain Workers' Compensation insurance for their respective employees as required by I.C. § 72-216.

7.1.3.1 Prior to the commencement of operations under this Contract, Contractor will supply the Fire District Secretary with proof of compliance with the above provisions relating to Workers' Compensation protection.

7.1.4 Contractors Risk of Loss Insurance: Contractor shall maintain for the benefit of itself, the Fire District, Contractor's subcontractors, suppliers, and any other interested persons as their interests may appear, fire, extended coverage, vandalism, and malicious mischief insurance, until acceptance of the work by the Fire District, for damage to or destruction of the Kuna Rural Fire District Station No. 2 Project and construction materials and Contractor's equipment, regardless of when or how such damage or destruction occurs.

7.1.4.1 The insurance amounts required by this section shall not be less than the replacement cost, including items of labor and materials connected with the same, whether in or adjacent to the insured Kuna Rural Fire District Station No. 2 Project, materials in place or to be used as part of the permanent construction or erection, including surplus materials, protective fences if any, or temporary structures, miscellaneous materials, and supplies incidental to the work, and such scaffolding, stages, towers, forms and equipment as are not owned or rented by contractor.

7.1.4.2 The loss, if any, is to be adjustable with Contractor subject to the approval of Fire District, which shall not be unreasonably withheld, and is to be payable to Contractor and the interested parties as their interests may appear. Any insurance proceeds received by Contractor in respect of any of the events referred to above that

occur prior to acceptance of the work by the Fire District shall be used by Contractor in replacing the property damaged or destroyed by such event; any portion of such proceeds not so used may be retained by Contractor after such replacement.

- 7.1.5** Contractor shall procure from the company or companies writing such insurance a certificate or certificates, satisfactory to the Fire District, evidencing that such insurance during the term of this agreement is in full force and effect and shall not be canceled or materially changed without ten days' prior written notice to the Fire District. Contractor will not commence construction work until it has furnished to Fire District the certificates of insurance evidencing that the insurance to be provided by Contractor is in force.

SECTION 8 BONDING REQUIREMENTS

- 8.1** Contractor shall furnish a performance bond in an amount equal to eighty-five percent (85%) of this contract amount conditioned upon the faithful performance of this Contract. Said bond shall be solely for the protection of the Fire District for awarding this Contract as required by Idaho Code Section 54-1926.
- 8.2** Contractor shall furnish a payment bond in an amount equal to eighty-five percent (85%) of this contract, solely for the protection of persons supplying, architectural, engineering and or surveying services and/or for persons providing labor or materials, or renting, leasing, or otherwise supplying materials, equipment or services to the successful bidder in the prosecution of the work provided for in this Bid.
- 8.3** Each bond required shall be and in the form of either: Cash, a Cashier's check made payable to the Fire District, a certified check, or a bidder's bond executed by a qualified surety company or companies duly authorized to do business in the state of Idaho, or the successful bidder may deposit any of the type of government obligations listed in subsection (2)(h) of Section 54-1901, Idaho Code, in lieu of furnishing a surety company performance or payment bond or bonds.
- 8.4** All bonds required shall be payable to the Fire District.
- 8.5** All bonds provided for in this section shall be filed in the office of the Secretary of the Fire District address above stated.

SECTION 9 PAYMENT OF CLAIMS

- 9.1** Contractor shall pay all claims for labor, material, services and supplies to be furnished by Contractor under this Contract, and shall allow no lien or charge to be fixed on the Real Property of the Fire District upon which the Kuna Rural Fire District Station No. 2 Project is constructed.

SECTION 10 WARRANTY

- 10.1** The work shall be executed in accordance with the Contract Plan Documents in a workmanlike manner. Contractor warrants that all materials and equipment shall be new unless otherwise specified, of good quality, in conformance with the Contract Plan Documents, and free from defective workmanship and materials. Contractor further warrants that the work will be free from material defects not intrinsic in the design or materials required in the Contract Plan Documents. Contractor's warranty does not include remedies for defects or damages caused by normal wear and tear during normal usage, use for a purpose for which the Kuna Rural Fire District Station No. 2 Project was not intended, improper or insufficient maintenance, modifications performed by Fire District or others retained by Fire District, or abuse.
- 10.2** If, prior to the Date of Substantial Completion and within one year after the date of Substantial Completion of the Work, any portion of the work is found to be not in conformance with the Contract Plan Documents ("Defective Work"), the Fire District shall promptly notify Contractor in writing. Unless the Fire District provides written acceptance of the condition, Contractor shall promptly correct the Defective Work at its own cost and time and bear the expense of additional services required for correction of any Defective Work for which it is responsible.

SECTION 11 FIRE DISTRICT RIGHTS AND OBLIGATIONS

- 11.1 Fire District's Responsibilities:** Any material, information or services to be provided by the Fire District shall be provided in a timely manner so as not to delay the Work.
- 11.2 Financial Information:** Prior to commencement of the work and thereafter at the written request of Contractor, the Fire District shall provide Contractor with evidence of project financing. Evidence of such financing shall be a condition precedent to Contractor's commencing or continuing the Work. Contractor shall be notified prior to any material change in Project financing. The Fire District agrees that neither Contractor nor its surety shall be bound thereunder unless, prior to the execution of this Contract, the Fire District shall furnish evidence to Contractor and its surety that financing has been firmly committed to cover the entire cost of the project.
- 11.3 Payment:** The Fire District shall pay to Contractor the Base Bid Contract Price in the sum _____ AND NO/100'S DOLLARS [\$0.00], and the Bid Alternate No. 1 Contract Price in sum of _____ AND NO/100'S DOLLARS [\$0.00] in accordance with the provisions Section 17 of this Contract.

SECTION 12 PERMITS

- 12.1 The Fire District shall be responsible for all permits necessary for the construction of the Kuna Rural Fire District Station No. 2 Project construction project.
- 12.2 Contractor's performance under this Contract is contingent upon approval of all necessary government and regulatory agencies in accordance with Idaho Law.

SECTION 13 CONTRACT TIME

- 13.1 **Date of Commencement:** The Date of Commencement is the date of the issuance of the Notice to Proceed letter issued by the Fire District.
- 13.2 **Time:** Substantial Completion of the work shall be achieved in one hundred and eighty (180) days from the date of the issuance of the building permit by the City of Kuna. Time limits stated above are of the essence of the Contract.

SECTION 14 SCHEDULE OF THE WORK

- 14.1 Before submitting the first application for payment, Contractor shall submit for review by the Fire District a schedule of the work that shall show the dates on which Contractor plans to begin and to complete various parts of the Work.

SECTION 15 DELAYS AND EXTENSIONS OF TIME

- 15.1 If Contractor is delayed at any time in the commencement or progress of the work by any cause beyond the control of Contractor, Contractor shall be entitled to an equitable extension of the Contract Time. In addition, if Contractor incurs additional costs as a result of such delay, Contractor shall be entitled to an equitable adjustment in the Contract Price, subject to the mutual waiver of consequential damages herein. Examples of causes beyond the control of Contractor include, but are not limited to, the following:
- 15.1.1 Acts or omissions of Fire District or others retained by Fire District;
 - 15.1.2 Changes in the work or the sequencing of the work ordered by Fire District, or arising from decisions of Fire District that impact the time of performance of the Work;
 - 15.1.3 Labor disputes not involving Contractor;
 - 15.1.4 Fire;

- 15.1.5 Encountering Hazardous Materials;
 - 15.1.6 Adverse weather conditions not reasonably anticipated;
 - 15.1.7 Concealed or unknown conditions;
 - 15.1.8 Work performed by other contractors separately let by Fire District which interferes with Contractor's work; and
 - 15.1.9 Delay authorized by the Fire District pending dispute resolution.
- 15.2 To the extent a delay in the progress of the work is caused by adverse weather conditions not reasonably anticipated, fire, unusual transportation delays, general labor disputes impacting the Project but not specifically related to the Worksite, governmental agencies or unavoidable accidents or circumstances, Contractor shall only be entitled to its actual costs without fee and an extension of the Date of Substantial Completion and/or Final Completion.
- 15.3 In the event delays to the work are encountered for any reason, Contractor shall provide prompt written notice to the Fire District of the cause of such delays after Contractor first recognizes the delay. The Fire District and Contractor agree to undertake reasonable steps to mitigate the effect of such delays.
- 15.4 **Notice of Delay Claims:** If Contractor requests an equitable extension of Contract Time and/or an equitable adjustment in Contract Price as a result of a delay, Contractor shall give the Fire District written notice of the claim. If Contractor causes delay in the completion of the Work, the Fire District shall be entitled to recover its additional costs subject to the mutual waiver of consequential damages herein.

SECTION 16 CHANGES

- 16.1 Contractor may request and/or the Fire District may order changes in the work or the timing or sequencing of performance of the work that impacts the Contract Price or the Contract Time. All such changes in the work that affect Contract Time or Contract Price shall be formalized in a Change Order.
- 16.2 The Fire District and Contractor shall negotiate in good faith an appropriate adjustment to the Contract Price and/or the Contract Time and shall conclude these negotiations as expeditiously as possible. Acceptance of the Change Order and any adjustment in the Contract Price and/or Contract Time shall not be unreasonably withheld, conditioned or delayed.

SECTION 17 COST OR CREDIT DETERMINATION

- 17.1** An increase or decrease in the Contract Price and/or the Contract Time resulting from a change in the work shall be determined by one or more of the following methods:
- 17.1.1** A mutually accepted, itemized lump sum;
 - 17.1.2** Costs calculated on a basis agreed upon by the Fire District and Contractor plus a fee (either a lump sum or a fee based on a percentage of cost) to which they agree; or
- 17.2 Performance of Changed Work:** Contractor shall not be obligated to perform Changed Work until a Change Order has been executed by the Fire District and Contractor.
- 17.3 Claims for Additional Cost or Time:** Except as provided in Sections 15 and 17 for any claim for an increase in the Contract Price and/or the Contract Time, Contractor shall give the Fire District written notice of the claim within fourteen (14) days after the occurrence giving rise to the claim or within fourteen (14) days after Contractor first recognizes the condition giving rise to the claim, whichever is later. Except in an emergency, notice shall be given before proceeding with the Work. Any change in the Contract Price and/or the Contract Time resulting from such claim shall be authorized by Change Order.

SECTION 18 PAYMENT

- 18.1 Schedule of Values:** Within twenty-one (21) days from the date of execution of this Contract, Contractor shall prepare and submit to the Fire District a schedule of values apportioned to the various divisions or phases of the Work. Each line item contained in the schedule of values shall be assigned a monetary price such that the total of all items shall equal the Contract Price.
- 18.2 Progress Payments:** Contractor shall submit to the Fire District a monthly application for payment no later than the 25th day of the calendar month for the preceding month. Contractor's applications for payment shall be itemized and supported by Contractor's schedule of values and any other substantiating data as required by this Contract. Payment applications shall include payment requests on account of properly authorized Change Orders. The Fire District shall pay the amount otherwise due on any payment application, less any amounts as set forth below, no later than twenty-one (21) days after Contractor has submitted a complete and accurate payment application. The Fire District may deduct, from any progress payment, such amounts as may be retained pursuant to Section 18.3.
- 18.3 Retainage:** From each progress payment made prior to Substantial Completion, the Fire District may retain five percent (5%) of the amount otherwise due after deduction of any amounts as provided in Sections 16 and 18.4 of this Contract.
- 18.4 Adjustment of Contractor's Payment Application:** The Fire District may adjust or reject a payment application or nullify a previously approved payment application, in whole or in part, as may reasonably be necessary to protect the Fire District from loss or damage

based upon the following, to the extent that Contractor is responsible therefor under this Contract:

- 18.4.1 Contractor's repeated failure to perform the work as required by the Contract Plan Documents;
 - 18.4.2 Loss or damage for which the Fire District may be liable arising out of or relating to this Contract and caused by Contractor to the Fire District or to others retained by the Fire District;
 - 18.4.3 Contractor's failure to properly pay Subcontractors for labor, materials or equipment furnished in connection with the work following receipt of such payment from the Fire District;
 - 18.4.4 Defective Work not corrected in a timely fashion;
 - 18.4.5 Reasonable evidence of delay in performance of the work such that the work will not be completed within the Contract Time, and
 - 18.4.6 Reasonable evidence demonstrating that the unpaid balance of the Contract Price is insufficient to fund the cost to complete the Work.
- 18.5 The Fire District shall give written notice to Contractor at the time of disapproving or nullifying an application for payment of the specific reasons therefor. When the above reasons for disapproving or nullifying an application for payment are removed, payment shall be made for the amounts previously withheld.
- 18.6 **Payment Delay:** If, for any reason not the fault of Contractor, Contractor does not receive a progress payment from the Fire District within seven (7) days after the time such payment is due, Contractor, upon giving seven (7) days' written notice to the Fire District and without prejudice to and in addition to any other legal remedies, may stop work until payment of the full amount owing to Contractor has been received. The Contract Price and Contract Time shall be equitably adjusted by Change Order for reasonable cost and delay resulting from shutdown, delay and start-up.
- 18.7 **Substantial Completion:** Substantial Completion is defined as receiving a temporary certificate of occupancy ("Certificate of Occupancy"). The Fire District agrees that Contractor will not be responsible for any mold or mildew issues once Substantial Completion has been granted. When Substantial Completion of the work or a designated portion thereof is achieved, Contractor shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion and the respective responsibilities of the Fire District and Contractor for punch list items and fixing the time for completion of all items on the list accompanying the Certificate. The Certificate of Substantial Completion shall be submitted by Contractor to the Fire District for written acceptance of responsibilities assigned in the Certificate. Unless otherwise provided in the Certificate of Substantial Completion, warranties required by the Contract shall commence on the date of Substantial Completion of the work or a designated portion.
- 18.7.1 Upon acceptance by the Fire District of the Certificate of Substantial Completion, the Fire District shall pay to Contractor the remaining retainage

held by the Fire District for the work described in the Certificate of Substantial Completion less a sum equal to one hundred percent (100%) of the estimated cost of completing or correcting remaining items on that part of the Work, as agreed to by the Fire District and Contractor as necessary to achieve final completion. Uncompleted items shall be completed by Contractor in a mutually agreed time frame. The Fire District shall pay Contractor monthly the amount retained for unfinished items as each item is completed.

- 18.8 Final Completion:** When final completion has been achieved, Contractor shall prepare for the Fire District's acceptance a final application for payment stating that, to the best of Contractor's knowledge, and based on the Fire District's inspections, the work has reached final completion in accordance with the Contract Plan Documents, the Contract and the Bid.
- 18.9** Final payment of the balance of the Contract Price shall be made to Contractor within fifteen (15) days after Contractor has submitted to the Fire District a complete and accurate application for final payment and the following submissions:
- 18.9.1** An affidavit declaring any indebtedness connected with the Work, e.g. payrolls or invoices for materials or equipment, to have been paid, satisfied or to be paid with the proceeds of final payment, so as not to encumber the Fire District's property; and
 - 18.9.2** As-built drawings, manuals, copies of warranties and all other close-out documents required by the Contract Plan Documents; and
 - 18.9.3** Release of any liens, conditioned on final payment being received; and
 - 18.9.4** Consent of any surety, if applicable; and
 - 18.9.5** A report of any accidents or injuries experienced by Contractor or its subcontractors at the worksite.
- 18.10** Claims not reserved in writing with the making of final payment shall be waived, except for claims relating to liens or similar encumbrances, warranties, Defective Work and latent defects.
- 18.11 Late Payment:** Payments due but unpaid shall bear interest from the date payment is due until the date the same is paid in full at one and a half percent (1.5%) per month.

SECTION 19 INDEMNITY

- 19.1** To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the Fire District, the Fire District's officers, directors, members, agents and employees harmless from all claims for bodily injury and property damage, other than to the work itself and

other property insured pursuant to this Contract, that may arise from the performance of the work to the extent of the negligence attributed to such acts or omissions by Contractor, subcontractors or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.

SECTION 20 MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES

- 20.1** The Fire District and Contractor agree to waive all claims against each other for any consequential damages that may arise out of or relate to this Contract. The Fire District agrees to waive damages including but not limited to the Fire District's loss of use of the Project, any rental expenses incurred, loss of income, profit or financing related to the Project, as well as the loss of business, loss of financing, principal office overhead and expenses, loss of profits not related to this Project, or loss of reputation. Contractor agrees to waive damages including but not limited to loss of business, loss of financing, principal office overhead and expenses, loss of profits not related to this Project, loss of bonding capacity or loss of reputation. This Paragraph shall not be construed to preclude contractual provisions for liquidated damages when such provisions relate to direct damages only. The provisions of this Paragraph shall also apply to the termination of this Contract and shall survive such termination.

SECTION 21 DEFAULT BY CONTRACTOR

- 21.1** **Notice of Default:** If the Fire District is dissatisfied with the performance of Contractor under this Contract on account of failure to perform under the terms and conditions of this Contract. The Fire District shall give Contractor written Notice of Default in which the Fire District shall specify in detail the cause of default and proposed remedy as provided in this Section of this Contract.
- 21.1.1** Contractor shall then have seven (7) days to give the Fire District a written response in writing to the Notice of Default stating its position; and
- 21.1.2** In the event there is a dispute between the Parties regarding the default and/or the remedy, the Parties shall have seven (7) days to mediate between their respective representatives an agreement to resolve the dispute. If there is an agreement, the same shall be placed in writing and executed by both representatives. If agreement cannot be reached, the Fire District shall then elect its remedy with Contractor reserving its legal remedies depending upon the validity of the claim of default.
- 21.2** In the event of default by Contractor, the Fire District shall have the right to direct the stoppage of work and/or has the right to correct and complete the work defaulted by Contractor.

21.2.1 In such case, a Change Order will be prepared by the Fire District deducting from payment the cost to remedy. After completion of the work by the Fire District, Contractor shall pay the difference, if any, to the Fire District to repay the excess payment received by Contractor.

21.3 Completion Time and Liquidated Damages: All work shall be completed by Contractor within one hundred and eighty (180) calendar days of the issuance of the building permit by the City of Kuna.

21.3.1 Liquidated Damages: The amount of liquidated damages for failure of Contractor to complete the work on time will be the sum of One Hundred Fifty and No/100 Dollars [\$150.00] per day to the Fire District, which it may offset against the Contract Price. Time is of the essence of this Contract.

21.3.2 Delays and events occurring which qualify for Contract Time extensions as set forth in Section 15 of this Contract apply the provisions of this Section 21.3.

SECTION 22 DEFAULT BY FIRE DISTRICT

22.1 Notice of Default: If Contractor determines that the Fire District has failed to perform under the terms and conditions of this Contract, Contractor shall give the Fire District written Notice of Default in which Contractor shall specify in detail the cause of default and proposed remedy as provided in this Contract.

22.1.1 Fire District shall then have seven (7) days to give Contractor a written response in writing to the Notice of Default stating its position; and

22.1.2 In the event there is a dispute between the Parties regarding the default and/or the remedy, the Parties shall have seven (7) days to mediate between their respective representatives an agreement to resolve the dispute. If there is an agreement, the same shall be placed in writing and executed by both representatives. If agreement cannot be reached, Contractor shall then elect its remedy.

22.2 In the event the default by the Fire District involves the failure to obtain a permit and/or to do site preparation and/or to provide access to the construction site and/or any other default which prevents Contractor from the timely performance of its Contract responsibility, Contractor shall have the right to:

22.2.1 Stop work until the Fire District cures the default and receive an extension of the time for its completion of the work until the Fire District has cured its default and receive, in addition to the Contract Price and payable with the Contract Price, an amount equal to eight percent (8%) per annum based upon the

Contract Price for the period of time its timely performance of the Contract has been delayed by the default of the Fire District; or

22.2.2 Contractor may elect to cease further work and to cancel the Contract and elect to obtain payment for all of its expenses of contract performance and any costs directly associated with discontinuance of the work, so long as the same is not greater than the Contract Price.

SECTION 23 CLAIMS AND DISPUTE RESOLUTION

23.1 Work Continuance and Payment: Unless otherwise agreed in writing, Contractor shall continue the work and maintain the Schedule of the work during any dispute resolution proceedings. If Contractor continues to perform, the Fire District shall continue to make payments in accordance with this Contract.

23.2 Initial Dispute Resolution Processes: If a dispute arises out of or relates to this Contract or its breach, the Parties shall endeavor to settle the dispute first through direct discussions in the process of the notices provided for in Sections 21 and 22.

SECTION 24 WAIVERS

24.1 None of the requirements of this Contract shall be considered waived by either Party unless such waiver is made in writing by the persons executing this Contract or by other authorized agents or representatives of the Parties.

SECTION 25 FORCE MAJEURE

25.1 Neither the Fire District nor Contractor shall be liable for any delays or damage or any failure to act caused by federal or state laws or the rules, regulations, or orders of any public body or official purporting to exercise authority or control respecting the operations covered by this Contract, including the procuring or use of tools and equipment, or caused by strikes, action of the elements, or other causes beyond the control of the Party affected by the same; any delay due to the above causes shall not be deemed to be a breach of or failure to perform any part of this Contract.

SECTION 26 STATE OF IDAHO CONTRACTOR CERTIFICATIONS AND ASSURANCES

26.1 State of Idaho Contract Certification Requirements: The Fire District is required by Idaho Code to include the following contractor certifications: In that regard Contractor certifies the following:

- 26.2.1** It is not currently engaged in, and will not for the duration of the contract engage in, a boycott of goods or services from Israel or territories under its control; and
- 26.2.2** It is not currently engaged in, and will not for the duration of this Contract engage in, a boycott of any individual or company because the individual or company: Engages in or supports the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel-based energy, timber, minerals, hydroelectric power, nuclear energy, or agriculture; or engages in or supports the manufacture, distribution, sale, or use of firearms, as defined in section 18-3302(2)(d), Idaho Code.
- 26.2.3** It is not an abortion provider or an affiliate of an abortion provider; and
- 26.2.4** It is not currently owned or operated by the government of China and will not for the duration of the contract be owned or operated by the government of China

SECTION 27 MISCELLANEOUS PROVISIONS

- 27.1 Titles.** The titles in this Contract are for convenience only and shall not be used in any way to interpret the Contract.
- 27.2 Notices/Representative Designation:** Any notice required, or permitted to be delivered, hereunder shall be deemed received when personally delivered or when deposited in the United States mail, postage prepaid, registered or certified with return receipt requested, or sent by FAX or e-mail or by recognized courier delivery (i.e., Federal Express, Airborne, Burlington, etc.) addressed to the Fire District or Contractor, as the case may be, at the addresses herein this section set forth. Any address for notice may be changed by written notice so given. Notices delivered personally will be effective upon delivery to an authorized representative of the Party at the designated address; notices sent by mail or courier in accordance with the above will be effective upon execution by the addressee of the Return Receipt Requested; notices sent by FAX or E-mail will be effective upon transmission. Notwithstanding anything to the contrary stated herein, actual notice, however received, shall always be effective.
- 27.2.1** Fire District designated representative and address:
Krystal Hinkle, Secretary/Treasurer
Kuna Rural Fire District
Mailing: P.O. Box 607 Kuna, Idaho 83634
Hand Deliver: 150 W. Boise St. Kuna, Idaho 83634
- 27.2.2** Contractor designated representative and address:

- 27.3 Prevailing Party.** In the event any Party shall file suit or action at law or equity to interpret or enforce this Agreement, the provisions of Idaho Code Section 12-117, or any subsequent amendment or recodification of the same, shall apply to the determination of the prevailing Party and the award of reasonable attorney’s fees, witness fees and other reasonable expenses.
- 27.4 Entire Contract.** This Contract and the Bid and the Contract Plan Documents to be executed by the Fire District and Contractor hereunder embody the entire Contract between the Parties relative to the subject matter hereof, and there are no oral or parallel agreements existing between the Fire District and Contractor relative to the subject matter hereof which are not expressly set forth herein or in the documents to be executed hereunder and covered hereby, and in the case of any conflicts between any such documents, this Contract shall control. This Contract may be modified only by a written instrument signed by the Parties.
- 27.5 Binding Effect.** This Contract shall inure to the benefit of and bind the Parties hereto and their respective heirs, representatives, successors and assigns.
- 27.6 Governing Law.** This Contract shall be governed by the laws of the state of Idaho and is to be performed in the state of Idaho.

SECTION 28 ASSIGNMENTS

- 28.1** Contractor agrees not to assign this Contract, except for work normally performed by subcontractors, without the prior written consent of the Fire District.

SECTION 29 COUNTERPARTS

- 29.1** This Contract may be executed by the Parties in two (2) counterparts, and each such counterpart shall be deemed an “original.”

IN WITNESS WHEREOF, the Parties have executed the within Instrument on the day and year herein after written.

CONTRACTOR

Its President

Date

KUNA RURAL FIRE DISTRICT

Chairman, Board of Commissioners

Date

ATTEST:

Krystal Hinkle, Secretary
Board Resolution No. _____

EXHIBITS

- A Bid Submission by Contractor
- B Contract Plan Documents