

PUBLIC SERVICES AGREEMENT

RFP 06-12, On-Call Land Surveying Services

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made by and between **Rim Rock Consulting, Inc.** ("CONTRACTOR"), and the **Moscow Urban Renewal Agency**, a public body, corporate and politic ("AGENCY") (individually referred to as "Party" and collectively as the "Parties").

AGREEMENT

In consideration of the mutual covenants contained herein, the Parties hereby agree as follows:

1. Scope of Work and Schedule. CONTRACTOR shall perform the tasks and services set forth in **RFP 06-12, On-Call Land Surveying Services** incorporated hereto by this reference. Professional Services will be determined by AGENCY on an as-needed basis and presented to CONTRACTOR as an individual Task. CONTRACTOR shall perform each Task at the direction of AGENCY and as more specifically described in each Task Order Authorization.

Prior to beginning performance in response to a Task Order, CONTRACTOR shall execute the Task Order and acknowledge receipt and acceptance of the Task Order. Each Task Order shall include a description of the services to be provided, a cost estimate, and the time for completion. The Task Order shall include all activities or work reasonably anticipated as necessary for successful completion of each Task requested by AGENCY.

2. Performance of the Work. CONTRACTOR agrees to perform the Work in a good and workmanlike manner in accordance with all applicable local ordinances and other applicable governmental laws, codes and regulations, including all State of Idaho, EPA and OSHA regulations.

3. Amount and Method of Payment.

- (a) **Payment.** AGENCY agrees to pay CONTRACTOR an amount not to exceed Twelve Thousand Dollars (\$12,000.00) based on [time and materials, lump sum, other] for the Work rendered under this Agreement.
- (b) **Invoices.** After completing the Work, CONTRACTOR shall provide AGENCY an invoice in a format acceptable to AGENCY for the Work performed. The invoice is due and shall be paid by AGENCY within thirty (30) days of receipt of a proper invoice, subject to Sections 3(d) and 17.
- (c) **Correcting Deficiencies.** If the Work does not meet the requirements of this Agreement as AGENCY may determine, AGENCY shall notify CONTRACTOR in writing and specify all deficiencies in the Work that do not meet the requirements. CONTRACTOR shall have seven (7) working days to correct or

modify the Work to comply with the requirements of the Agreement as set forth in AGENCY's written notice. If AGENCY again determines the Work fails to meet the requirements, AGENCY may withhold payment until deficiencies have been corrected to AGENCY's satisfaction or may terminate this Agreement for cause as set forth in Section 17. of this Agreement. No interest shall accrue on unpaid amounts withheld by AGENCY under this provision.

4. Insurance Requirements. Upon execution of this Agreement and prior to commencing any services under this Agreement, CONTRACTOR shall obtain at its sole cost and expense and thereafter maintain, for the duration of the Agreement, at least the minimum insurance coverages set forth below:

- (a) Worker's compensation insurance and Employer's liability insurance as required by applicable law or regulation.
- (b) Professional liability insurance with a minimum coverage limit of 1,000,000.
- (c) Commercial general liability insurance covering all operations by or on behalf of the CONTRACTOR with minimum limits of liability of \$1,000,000 for each occurrence and \$1,000,000 aggregate for both bodily injury and property damage. The commercial general liability insurance policy shall name AGENCY as Additional Insured and shall protect its officers, agents and employees from and against any and all claims, losses, actions, and judgments for damages or injury to persons or property arising out of or in connection with the CONTRACTOR's negligence during the performance of this Agreement; and
- (d) Automobile liability insurance including coverage for owned, hired, and non-owned automobiles. The limits of liability shall not be less than \$500,000 combined single limit each accident for bodily injury and property damage combined. CONTRACTOR shall require each of its subcontractors to include in their liability insurance policies coverage for automobile contractual liability.

All insurance required in this Agreement shall be occurrence based coverage as opposed to claims based coverage and shall be procured from companies which are authorized to do business in Idaho.

5. Independent Contractor Relationship. CONTRACTOR is an independent contractor and is not an employee, servant, agent, partner, or joint venturer of AGENCY.

6. Discrimination Prohibited. In performing the Work required herein, CONTRACTOR shall not discriminate against any person on the basis of race, color, religion, sex, national origin or ancestry, age or handicap. Violation of this section shall constitute a material breach of this Agreement and deemed grounds for cancellation, termination or suspension of the Agreement by AGENCY, in whole or in part, and may result in ineligibility for further work for AGENCY.

7. Federal, State, and Local Payroll Taxes. Neither federal, state or local income taxes, nor payroll taxes of any kind shall be withheld and paid by AGENCY on behalf of CONTRACTOR or the employees of CONTRACTOR. CONTRACTOR shall not be treated as an employee for federal or state tax purposes.

8. Equipment, Tools, Materials or Supplies. CONTRACTOR shall supply, at CONTRACTOR's sole expense, all equipment, tools, materials and/or supplies to accomplish the Work to be performed herein.

9. Right of Control. AGENCY agrees that it will have no right to control or direct the details, manner, or means by which CONTRACTOR accomplishes the results of the Work performed hereunder. CONTRACTOR has no obligation to work any particular hours or days or any particular number of hours or days. CONTRACTOR agrees, however, that its other contracts shall not interfere with its performance under this Agreement. AGENCY agrees to coordinate project schedules, respective commencements and deadlines with other contractors that are part of project team.

10. Liens. CONTRACTOR acknowledges AGENCY is a public entity, that any property owned by AGENCY is considered public property, and that liens on public property are not enforceable. CONTRACTOR agrees that it shall not file any liens against property owned or controlled by AGENCY (the "Property"). Subject to AGENCY's payment of the compensation in accordance with the terms of this Agreement, CONTRACTOR will promptly discharge all liens, if any, filed against the Property by CONTRACTOR's subcontractors, suppliers and materialmen, and agents and persons employed by any of such persons.

11. Reasonable Satisfaction. If, following completion of the Work, AGENCY is not reasonably satisfied with the Work, AGENCY shall inform CONTRACTOR of the deficiencies and may withhold payment until CONTRACTOR remedies said deficiencies, which may include re-doing the Work at CONTRACTOR's expense.

12. Warranty. CONTRACTOR warrants that the Work will be performed in good faith and in a workmanlike manner. CONTRACTOR acknowledges that it will be liable for any breach of this warranty.

13. Indemnity. To the fullest extent permitted by law, CONTRACTOR shall defend, indemnify and hold AGENCY harmless from and against all claims, damages, losses and expenses including without limitation attorney fees arising out of or resulting from the negligent or intentionally wrongful acts or omissions of CONTRACTOR, its agents, employees, subcontractors, materialmen and suppliers relating to the Work performed pursuant to this Agreement.

14. Termination by AGENCY.

- (a) For Convenience. AGENCY may terminate this Agreement at its convenience at any time by giving CONTRACTOR seven (7) days written notice.

- (b) For Cause. To terminate this Agreement for cause, AGENCY shall provide written notice (the "Termination Notice") to CONTRACTOR specifying the grounds for termination in sufficient detail to provide CONTRACTOR with a reasonable opportunity to cure. If CONTRACTOR does not cure or otherwise rectify the grounds for termination or take reasonable steps to do so within three (3) days of its receipt of the Termination Notice, AGENCY may terminate this Agreement.

If this Agreement is terminated by AGENCY as provided herein, CONTRACTOR shall be paid an amount for the Work completed as of the date of termination, less amounts already paid and any damages to AGENCY resulting from CONTRACTOR's breach of the Agreement. AGENCY may withhold any payments to the CONTRACTOR for purposes of set-off until such time as the exact amount of damages due AGENCY is determined.

15. Attorneys Fees. In the event of any controversy, claim or action being filed or instituted between the Parties hereto to enforce the terms and conditions of this Agreement or arising from the breach of any provision thereof, the prevailing Party will be entitled to receive from the other Party all costs, damages, and expenses, including reasonable attorneys' fees through all levels of action. The prevailing Party will be that Party who is awarded judgment as a result of trial or arbitration, or who receives a payment of money or other concession or agreements from the other Party in settlement of claims asserted by or against that Party.

16. Nonwaiver. No covenant, term or condition contained in this Agreement nor the breach thereof may be waived, except by written consent of the Party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be a waiver of any other covenant, term or condition herein.

17. Notice. All notices required to be given in writing hereunder shall be deemed to have been validly given on that day if personally delivered to the address set forth below or, if mailed, three (3) business days after the deposit thereof in the United States mail, postage prepaid, by certified or registered mail, return receipt requested to the addresses set forth below:

To AGENCY:
Jeffrey B. Jones, AICP
Executive Director
Moscow Urban Renewal Agency
206 E. Third Street
Moscow, ID 83843
Telephone: 208-883-7007
Email: jjones@ci.moscow.id.us

To CONTRACTOR:
Mr. John Dunn, PLS
Rim Rock Consulting, Inc.
115 South Washington Street, Suite 3

Moscow, ID 83843
Telephone: 208-883-5339
Email: rimrock@moscow.com

Telephone numbers and E-mail addresses are for convenience and not to be used for notices required to be in writing. Informal notices and communication may be delivered in person or by telephone, U.S. Mail, courier, E-mail or FAX. Either Party may, by written notice, change the address, telephone number FAX number, or e-mail address listed above.

18. Assignment. It is expressly agreed and understood by the Parties hereto, that CONTRACTOR shall not have the right to assign, transfer, hypothecate or sell any of its rights under this Agreement except upon the prior express written consent of AGENCY.

19. Entire Agreement. This Agreement constitutes the entire agreement between the Parties concerning the subject matter hereof.

20. Amendments. This Agreement may not be amended, modified or changed except by a writing signed by each of the Parties hereto.

21. Governing Law. The interpretation of this Agreement and any disputes or claims that arise from this Agreement will be governed by the laws of the state of Idaho.

IN WITNESS WHEREOF, the Contractor and AGENCY have executed this Agreement effective as of the date last written below.

MOSCOW URBAN RENEWAL AGENCY


Jeffrey B. Jones, Executive Director

Date: 10-04-2012

RIM ROCK CONSULTING, INC.
[Name of Contractor]


Signature

John Ohnn
Print Name

President
Print Title

Date: October 1, 2012