

RECEIVED

Form No. 204 Rev. 12/12

JUN 26 2018

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

\$50 fee

Received by ANRecpt No. C105292Date 6/26/18

REQUEST FOR EXTENSION OF TIME

To provide additional time in which to submit proof of beneficial use for a water right permit

The Idaho Department of Water Resources will consider this form a request that the permit holder(s) be granted an additional period of time under the provisions of Section 42-204, Idaho Code, in which to complete development of a water right and file proof of beneficial use of water. There is a FILING FEE of \$50.00 to be included with this form when filed with IDWR.

Permit no. 63-34359 Date proof is due July 1, 2018Name(s) of permit holder(s) Canyon County Parks & RecreationMailing address 1115 Albany St. City Calhoun State ID Zip 83005Telephone no. (208) 454-6884 Email mschwend@ canyonco.org

Describe what work has been completed toward the development of this water right:

If no work has been completed, show "none"

- contract well driller has been hired, well drilling to start on July 10th, 2018

(please see Attached contract)

Costing \$ 44,080.00

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

Contractor is not available until July 10, 2018

(please see Attached Email)

Permit holder(s) request an extension for (1) year(s).

Signature (If other than permit holder, Power of Attorney must be supplied)

Date

Paul Zhuang for Canyon County
6/22/2018

ACTION OF THE DEPARTMENT OF WATER RESOURCES

The Department has reviewed the explanation for delay and concludes the reason(s) for delay meets the requirements for approval of the Request for Extension of Time as provided by Section(s) 42-204 and/or 42-218, Idaho Code.

☐ IT IS HEREBY ORDERED that the permit is REINSTATED with the priority date advanced to _____, 20____.

☒ IT IS HEREBY ORDERED that the above request for extension of time is APPROVED, and the time within which to submit proof of beneficial use is extended to July 1, 2019.

Signed this 29th day of June, 2018

Shelley W. Keen
Shelley W. Keen, Manager
Water Rights Section

Paul Navarro

From: sam@downrightdrilling.com
Sent: Thursday, June 21, 2018 3:52 PM
To: Jason Thompson; Paul Navarro; Sean Albertson
Subject: Celebration Park Well

Hey All,

I am looking at getting back the week of the 1st. It may take the week to get everything back over there and get in gear to go out, so I am looking at trying to Mobilize out on the 9th or 10th.

I will notify you all again the week of the 1st to make sure all is good.

Let me know if anybody has any questions or concerns.

Thanks

Sam Kingrey
Down Right Drilling & Pump Inc.
6025 Little Freezeout Rd.
Caldwell, ID. 83607
208-454-3098 C. 208-484-8474

**INDEPENDENT CONTRACTOR AGREEMENT FOR
CROSSROADS MUSEUM NEW WELL AND PUBLIC WATER SYSTEM**

THIS AGREEMENT is made between Down Right Drilling & Pump, Inc., having a local address of 6025 Little Freezeout Caldwell (hereinafter "CONTRACTOR") and Canyon County, a political subdivision of the State of Idaho, having offices at 1115 Albany St. Caldwell, Idaho 83605 (hereinafter "COUNTY").

WHEREAS, in compliance with competitive procurement exceptions provided by Idaho Code Section 67-2805 COUNTY participated in an informal solicitation process to complete the Crossroads Museum well project and determined that CONTRACTOR's bid to provide said construction services was the lowest responsive bid received and that funds sufficient to complete such construction have been duly appropriated for expenditure in FY2018.

NOW THEREFORE, in consideration of the mutual promises contained herein, the Parties hereby understand and agree as follows:

• **PURPOSE:**

- 1.1 COUNTY hereby employs CONTRACTOR as an independent contractor to complete and perform the following project and work:

Furnish and install new well, pump, and associated mechanical appurtenances for a new public water system. The facilities constructed shall include materials and equipment as shown on the contract drawings and described herein required for a fully operational system.

- 1.2 CONTRACTOR agrees to provide all materials and services for the project as requested by the COUNTY and in accordance with the Project Plans and Technical Specifications (see Attachment 1) and CONTRACTOR's bid, (see Attachment 2) and incorporated fully by reference.

• **CONTRACTOR REPRESENTATIONS:**

- 2.1 CONTRACTOR has visited the Site and become familiar with and satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the project.
- 2.2 CONTRACTOR is a duly licensed public works contractor and complex installer, familiar with and satisfied as to all federal, state, and local laws and regulations that may affect cost, progress, and performance of the project. CONTRACTOR agrees to comply with all federal, state, city, and local

laws, rules and regulations.

- 2.3 The project specifications and this contract sufficiently detail the work required and convey understanding of all terms and conditions for performance and furnishing of the work.
- 2.4 CONTRACTOR warrants that all materials and goods supplied under this Agreement shall be of good merchantable quality and that all services will be performed in a good workmanlike manner. CONTRACTOR acknowledges that it will be liable for any breach of this warranty.
- 2.5 CONTRACTOR represents that neither it nor any of its principals is related to a County Commissioner or other Canyon County official by blood or marriage within the second degree of kindred. CONTRACTOR agrees to comply with all federal, state, city, and local laws, rules and regulations.
- 2.6 CONTRACTOR understands that COUNTY is exempt from payment of Federal Excise Tax under Certificate No. 82-6000-290 and none shall be charged to COUNTY.
- 2.7 I.C. § 63-1503 statement: CONTRACTOR, in consideration of securing the business of erecting or constructing public works in this state, recognizing that the business in which he is engaged is of a transitory character, and that in the pursuit thereof, his property used therein may be without the state when taxes, excises, or license fees to which he is liable become payable, agrees:
- To pay promptly when due all taxes, (other than on real property), excises and license fees due to the state, its subdivisions, and municipal and quasi-municipal corporations therein, accrued or accruing during the term of this contract, whether or not the same shall be payable at the end of such term;
 - That if the said taxes, excises, and license fees are not payable at the end of said term, but liability for the payment thereof exists, even though the same constitute liens upon his property, to secure the same to the satisfaction of the respective officers charged with the collection thereof; and

- That, in the event of his default in the payment or securing of such taxes, excises, and license fees, to consent that the department, officer, board, or taxing unit entering into this contract may withhold from any payment due him hereunder the estimated amount of such accrued and accruing taxes, excises, and license fees for the benefit of all taxing units to which said contractor is liable.

3. COMPENSATION:

3.1 COUNTY agrees to pay CONTRACTOR as compensation:

The sum of 44,080 dollars (\$) payable in installments proportional to the work completed and issued not more frequently than monthly.

Prior to the first payment, the CONTRACTOR shall submit to the County an initial schedule of values allocated to the work that shall be used as a basis for reviewing invoices. Invoices shall certify that payment is for work, materials, equipment or supplies actually performed or actually installed in furtherance of the sewer relocation project, and shall reflect a five percent (5%) retainage to be paid upon project completion and acceptance.

3.2 CONTRACTOR shall submit their invoices to:

Paul Navarro, Director
Canyon County Facilities
1115 Albany Street
Caldwell, Idaho 83605

3.3 Subject to Article 8, sections 3 and 4 of the Idaho Constitution and all other non-

appropriation law in relation thereto, COUNTY will duly and punctually pay the amounts to satisfy its obligations required under this Agreement, recognizing that time is of the essence. If non-appropriation occurs, this Agreement shall automatically terminate and all future rights and liabilities of the parties hereto shall thereupon cease upon CONTRACTOR's receipt of original notice from COUNTY informing CONTRACTOR of that event.

4. TIME OF PERFORMANCE:

- 4.1 Time is of the essence in the performance of the work as specified in this Agreement.
- 4.2 The parties intend the project to take (4) four weeks, with a tentative starting date of July 2, 2018, to be completed by Aug 31, 2018. However, the COUNTY understands and agrees that CONTRACTOR requires a preparatory term of N/A working days after the COUNTY completes its security background checks of CONTRACTOR's personnel assigned to this project before the start date and (8) eight week completion time begins.
- 4.3 If CONTRACTOR fails to deliver the subject matter of this Agreement in accordance with this time schedule, liquidated damages shall accrue to COUNTY as follows: CONTRACTOR shall pay COUNTY the sum of Five Hundred Dollars (\$500.00) per day for each and every calendar day of unexcused delay. Liquidated damages shall not be charged when the delay arises out of causes beyond the control of CONTRACTOR.

• **INSURANCE:**

- 5.1 CONTRACTOR agrees to obtain and keep in force during its acts under this Agreement insurance as required by the solicitation for bids, including but not limited to a comprehensive general liability insurance policy in the minimum amount of \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate, which shall name as additional insured and protect COUNTY, and 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 CONTRACTOR's acts.
- 5.2 CONTRACTOR shall provide proof of liability coverage as set forth above to COUNTY prior to commencing its performance as herein provided, and require notify COUNTY ten (10) days prior to cancellation of said policy.
- 5.3 CONTRACTOR shall maintain in full force and effect worker's compensation for CONTRACTOR and any agents, employees, and staff that CONTRACTOR may employ, and provide proof to COUNTY of such coverage or that such worker's compensation insurance is not required under the circumstances.

• **INDEMNIFICATION:**

CONTRACTOR agrees to indemnify, defend, and hold harmless COUNTY, and its

officers, agents and employees, from and against any and all claims, losses, actions, or judgments for damages or injury to persons or property arising out of or in connection with the acts and/or any performances or activities of CONTRACTOR, CONTRACTOR's agents, employees, or representatives under this Agreement.

- **INDEPENDENT CONTRACTOR:**

7.1 The parties agree that CONTRACTOR is the independent contractor of COUNTY

and in no way an employee or agent of COUNTY and is not entitled to worker's compensation or any benefit of employment with COUNTY.

7.2 COUNTY shall have no control over the performance of this Agreement by

CONTRACTOR or its employees, except to specify the time and place of performance, and the results to be achieved. COUNTY shall have no responsibility

for security or protection of CONTRACTOR supplies or equipment.

- **PERSONNEL AND SECURITY REQUIREMENTS:**

8.1 CONTRACTOR reserves the right to designate its resources and personnel for installation in every situation. Notwithstanding the above, CONTRACTOR shall provide a list of the individuals assigned to the project team to COUNTY.

8.2 COUNTY shall have the right to direct removal of a CONTRACTOR employee for

cause, if in the opinion of COUNTY, such employee demonstrates nonperformance or inappropriate conduct, which jeopardizes security, safety, or other

Agreement requirements, or fails to pass the initial jail background check. COUNTY shall provide CONTRACTOR with written justification as to the reason(s) for the directed removal.

- **PERFORMANCE BOND/PAYMENT BOND:**

9.1 Pursuant to Idaho Code Section 54-1926, CONTRACTOR shall provide and maintain at all times a valid Contractor's Performance Bond in any amounts sufficient to cover performance of this Agreement. The Performance Bond shall be issued for a period of not less than one (1) year and must be renewed annually for the term of this Agreement, and CONTRACTOR shall provide a new Bond, or evidence satisfactory to COUNTY of renewability, at least sixty (60) calendar days before the Bond then in effect expires. The Performance Bond shall be for the use and benefit of COUNTY, with a Surety company authorized to do business in the State of

Idaho and acceptable to COUNTY. Said Performance Bond shall cover CONTRACTOR's failure to faithfully perform all of the provisions of this Agreement. Said Performance Bond shall obligate the Surety to undertake or cause to be undertaken the work required to be performed pursuant to this Agreement for the term of the Bond. Such Bond shall be submitted to, and subject to approval of, the Board of Canyon County Commissioners prior to its effective date.

9.2 Pursuant to Idaho Code Section 54-1926, CONTRACTOR shall provide and

maintain at all times a valid Payment Bond in any amounts sufficient to cover CONTRACTOR's payment obligations arising under each phase of this Agreement. The Payment Bond shall be issued for a period of not less than one (1) year and must be renewed annually for the term of this Agreement, and CONTRACTOR shall provide a new Payment Bond, or evidence satisfactory, to COUNTY of renewability at least sixty (60) calendar days before the Payment Bond then in effect expires. The Payment Bond shall be for the use and benefit of COUNTY, with a Surety company authorized to do business in the State of Idaho and acceptable to COUNTY. Said Payment Bond shall be submitted to, and subject to approval of, the Board of Canyon County Commissioners prior to its effective date.

9.3 CONTRACTOR is required to furnish the performance and payment bonds to

COUNTY on or before the date of the execution of this Agreement. The performance bond must guarantee CONTRACTOR's performance from the date of the Agreement execution up to and including the project acceptance and completion of Agreement and the payment bond must guarantee CONTRACTOR's payment obligations arising from this Agreement from the date of the Agreement execution up to and including the system acceptance testing and completion of Agreement.

• **MISCELLANEOUS:**

10.1. **CONTROLLING LAW:** The Agreement shall be interpreted, and rights of the

Parties determined, under the laws of the State of Idaho. The venue of any claim, litigation, or cause of action between the Parties shall be in the Third Judicial District Court of the State of Idaho in Canyon County.

10.2. **SEVERABILITY:** The terms of this Agreement are severable. Should a court of competent jurisdiction decide that any portion of this Agreement is unlawful or invalid, said decision shall only affect those specific sections and the remaining portions of this Agreement shall remain in full force and effect.

10.3. **ENTIRE AGREEMENT:** This is the entire agreement of the parties and can only be modified or amended in writing by the parties.

DATED this 18 day of April, 2018.

"COUNTY"

BOARD OF COUNTY COMMISSIONERS

☒ Motion Carried Unanimously
☐ Motion Carried/Split Vote Below
☐ Motion Defeated/Split Vote Below

Unavailable for signature
Commissioner Steven J. Rule


Commissioner Tom Dale


Commissioner Pam White

Yes	No	Did Not Vote
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ATTEST: CHRIS YAMAMOTO, CLERK

By: 
Deputy Clerk



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

July 02, 2018

CANYON COUNTY PARKS AND RECREATION
1115 ALBANY ST
CALDWELL ID 83605

REQUEST FOR EXTENSION OF TIME LETTER

RE: Permit No. 63-34359

Dear Permit Holder(s):

Enclosed is a copy of the approved request for extension of time submitted in connection with the above referenced permit which extends the proof due date to **July 01, 2019**.

The department granted this extension based on evidence of good cause. It is important that you work diligently toward the completion of the project during the development period allowed, according to Section 42-204(6), Idaho Code.

The extension is a PRELIMINARY ORDER issued by the Department pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01). It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Please be advised that Section 42-248, Idaho Code, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office or at the department's website at www.idwr.idaho.gov.

If you have any questions concerning this permit, please contact the State Office of the Department located in Boise at (208) 287-4800.

Sincerely,

Darla Block
Technical Records Specialist

Enclosure(s)

c: SPF WATER ENGINEERING LLC

CERTIFICATE OF SERVICE

I hereby certify that on **July 03, 2018** I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (**APPROVED REQUEST FOR EXTENSION OF TIME**) to the person(s) listed below:

RE: Preliminary Order in the Matter of Permit No. **63-34359**

**CANYON COUNTY PARKS AND RECREATION
1115 ALBANY ST
CALDWELL ID 83605**

**SPF WATER ENGINEERING LLC
300 E MALLARD DR STE 350
BOISE ID 83706**



**Darla Block
Technical Records Specialist**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.



Canyon County *FACILITIES MANAGEMENT*

1115 Albany Street • Caldwell, Idaho 83605
Phone: (208) 454-7473 • Fax: (208) 454-6638
E-mail: pnavarro@canyonco.org

Paul Navarro
Facilities Manager

Department of Water Resources
322 East Front Street
PO BOX 83720
Boise Idaho 83720-0098
Attn: Darla Block

RECEIVED
JUN 28 2018
DEPARTMENT OF
WATER RESOURCES

June 22, 2018

Darla,

We're in receipt of your letter dated April 30, 2018 regarding permit no. 63-34359 for our well at Celebration Park in Melba Idaho.

As of today, we've hired a professional well driller through the competitive bid process, and our well driller is gearing up to start the process on July 10th, 2018, which is after our permit expires.

I've attached a copy of the REQUEST FOR EXTENSION OF TIME, and enclosed the \$50.00 fee. I've also attached a copy of the executed contract with down-right drilling, and an e-mail with the owner, Sam Kingrey showing his intention to start drilling the well on July 10, 2018.

Lastly, I see that a carbon copy of your letter was sent to CARL GEIGER, who was our engineer of record on this project, but is no longer associated with this project. Instead we've hired SPF Engineering, and if you could please note for all future communications, that they are now the engineer of record for this project.

Please let me know if you have any questions or concerns, or if need further information to process of our request for extension of time.

Respectfully,

Paul Navarro
Director of Operations & Facilities
(208) 454-7473
pnavarro@canyonco.org