

**AGREEMENT FOR REMOVAL, INSTALLATION AND DONATION OF
PARK IMPROVEMENTS AT SUNRISE PARK**

This agreement for removal, installation and donation of park improvements ("**Agreement**") is entered into and is effective as of this ____ day of _____ 2021 ("**Effective Date**"), between CLARK COUNTY, a political subdivision of the State of Nevada ("**County**"), and REBUILDING TOGETHER SOUTHERN NEVADA, a domestic non-profit organized under the laws of the state of Nevada ("**Donator**") (County and Donator may individually be referred to as a "**Party**" and collectively as the "**Parties**").

RECITALS:

WHEREAS, the County owns certain real property known as Assessor's Parcel Number 140-21-511-019 described in Exhibit "A" ("Property"); and

WHEREAS, Donator has obtained a grant from Republic Services known as the Neighborhood of Promise Grant ("Grant") to beautify and remediate various improvements; and

WHEREAS, on November 19th, 2013 the County adopted the Naming Policy for County Facilities ("Naming Policy"); and

WHEREAS, Donator desires to use the Grant to remove and install improvements as listed on Exhibit "B" and depicted on Exhibit "C" ("Project") and incorporated herein; and

NOW, THEREFORE, in consideration of the promises and of the mutual covenants herein contained, it is agreed as follows:

A. TERMS & CONDITIONS:

1. **Clark County.**

Upon completion of the Project, County shall be responsible for the maintenance of the completed Project.

County reserves the right to remove the Project if it presents a safety hazard or because the cost of maintenance of the Project becomes, in the reasonable determination of the County, unduly burdensome.

2. **Donator.** Donator agrees to provide funding for any and all costs of the Project, including, but not limited to, design of ADA pathways, manufacturing, equipment, transportation, installation, labor, permit, inspection, and third-party fees, and payment for any professional or other services necessary for the completion of the Project up to the amount of One Hundred Thirty-Eight Thousand Six Hundred Eighty-Five Dollars (\$138,685.00) ("Not to Exceed Amount"). Donator agrees to promptly pay any invoices for all paid services and purchased materials necessary for the Project, including services performed by engineers, architects, general contractor, inspectors and third-party quality assurance personnel, but in any event, within thirty (30) days of any invoice up to the Not to Exceed Amount. Donator agrees to provide all equipment, labor, and material to install the Project as shown in Exhibit B and Exhibit C. Donator agrees to indemnify the County and hold harmless the County against any mechanics liens, personal injury claims, or other claims levied against the County

filed by third parties arising out of the construction, design, fabrication, installation, and/or transportation of the Project.

Donator agrees to apply for and obtain all required approvals, permits, and inspections for the Project. Donator agrees to construct the Project according to ~~the structural engineering calculations, drawings, specifications, and~~ details as shown on Exhibit B and Exhibit C. Donator, or the contractor on Donator's behalf, shall provide the evaluation of drawings and design, consultation, inspection, construction oversight, coordination and supervision of the Project as necessary to complete the Project according to all applicable state and local codes, laws and regulations, including any terms and conditions stated in the Patent.

Donator agrees to award the construction of the Project and/or purchase the Project in accordance with Nevada law and provide the County with notification of contract amount for the Project. If the lowest responsive and responsible bidder or purchase amount exceeds the Not to Exceed Amount, then the Donator will not award or acquire the Project unless: (1) the Donator provides additional funding for the Project; (2) the Donator supplements this Agreement by additional funds necessary to construct the Project or (3) the County approves in writing a reduction in the scope of work necessary for the Project cost to meet the Not to Exceed Amount.

If during the course of construction change orders are requested, which in addition to the amount to bid award amount will exceed the Not to Exceed Amount, the Donator shall not approve the change order unless: (1) the Donator provides sufficient additional funding for the Project including the change order; (2) the Donators supplement this Agreement by additional funds necessary to construct the Project or (3) the County approves in writing a reduction in the scope of work necessary for the Project cost to meet the Not to Exceed Amount.

Notwithstanding the above, if any additional costs of the Project is the result of the Donator's or their contractors or subcontractors negligence, errors, omission or delays, they shall be the responsibility of the Donator and not part of the Not to Exceed Amount.

Donator shall not retain any rights to or ownership of the Project after completion and upon acceptance by the County any such rights and/or ownership will vest in the County upon execution of this Agreement.

3. **Project Coordination and Completion Deadline.** Donator agrees to coordinate, in cooperation with the County, the scheduling and the work necessary to construct the Project to ensure the efficient and orderly sequence of installation of the interdependent Project elements and in a manner not to interfere with park use and/or special events. Donator agrees to commence construction no later than sixty (60) days after the Effective Date ("Commencement Date") to complete the Project within four (4) months of the Commencement Date unless otherwise agreed upon in writing.

Donator agrees to allow County to inspect the Project during and upon completion.

4. **Project Meetings.** Participation by the Parties in project meetings scheduled from time to time shall be required as scheduled by the Parks and Recreation Operations Division or their designee.
5. **Donation.** The labor, material and services performed, and materials supplied hereunder are being donated by Donator. The Parties acknowledge that this Agreement does not require the County to pay for any services, material or labor to complete the Project except for those services completed for maintenance of the Project.
6. **Significant Contribution.** Pursuant to the Naming Policy and in consideration of Donator's significant contribution to the Project, a dedication boulder and plaque shall be placed naming the Donator and Republic Services as a significant contributor.
7. **Insurance.** During the term of this Agreement, any Contractor and subcontractor used by Donator, for the design, fabrication, manufacturing, equipment, transportation and/or installation shall maintain insurance coverage as follows:
 - a) Commercial General Liability insurance and Commercial Automobile Liability insurance protecting such party in an amount not less than One Million Dollars (\$1,000,000) per occurrence (combined single limit), including bodily injury and property damage, and in an amount not less than Two Million Dollars (\$2,000,000) annual aggregate for each personal injury liability. The Commercial General Liability insurance policies shall name the County, its commission members, officers, and employees as additional insureds for any covered liability arising out of such party's performance of work under this Agreement. Coverage shall be in an occurrence form and in accordance with the limits and provision specified herein. Claims-made policies are not acceptable. Such insurance shall not be canceled, nor shall the occurrence or aggregate limits set forth above be reduced, until the County has received at least Thirty (30) day's advance written notice of such cancellation or change. Donator shall be responsible for notifying the County of such change or cancellation. All deductibles and self-insured retentions shall be fully disclosed in the Certificates of Insurance and may not exceed Twenty Five Thousand Dollars (\$25,000).
 - b) Workers compensation insurance in the state of Nevada, in accordance with NRS Chapters 616A-616D, inclusive; provided, however, a party that is a sole proprietor shall be required to submit an affidavit in a form provided by Clark County indicating that the party has elected not to be included in the coverage under Chapters 616A-616D, inclusive, and is otherwise in compliance with those provisions.
 - c) If any party subcontracts for the work described, then such party shall be responsible for ensuring that its subcontractor carries these required insurances.
8. **Permits and Governmental Approval.** Donator and its contractor shall, at all times, comply with all regulations, rules, laws, codes, ordinances, and conditions and obtain any and all required permits and approvals from any government agency.
9. **Term.** This Agreement shall not be effective until approved and fully executed by the Clark County Board of County Commissioners.

10. **Termination.** This agreement may be terminated by any Party upon thirty (30) days written notice to the other Party without liability to the terminating Party. If Donator, or its contractors on behalf of Donator, does not complete the Project in a timely manner pursuant Paragraph 3 above, Donator agrees to allow the County to use its vendors to complete the Project with Donator to be responsible for payment of any and all invoices submitted by County's vendors within thirty (30) days of submission. Donator will be responsible for removing any liens placed upon the property for services performed prior to the termination.
11. **Notices.** All notices or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered in person by hand delivery, or sent via certified mail, and addressed to the other Parties at the address set forth below until notice of change of address is provided:

CLARK COUNTY: Clark County Department of Real Property Management
Attn: Director
500 S Grand Central Pkwy, 4th Floor
Las Vegas, NV 89155-1825

Clark County Department of Parks & Recreation
Attn: Director
2601 E Sunset Road
Las Vegas, NV 89120

DONATOR: Rebuilding Together Southern Nevada
Attn: Bob Cleveland
611 S 9th St
Las Vegas, NV 89101

B. **MISCELLANEOUS PROVISIONS:**

1. **Severability.** The illegality or invalidity of any provisions or portion of this Agreement shall not affect the validity of the remainder of the Agreement and this Agreement shall be construed as if such provision did not exist. The unenforceability of such provision or provisions shall not be construed as if such provision did not exist. The unenforceability of such provision shall not be held to render any other provision or provisions of this Agreement unenforceable. The Parties further agree to replace any such invalid, illegal, or unenforceable portion with a valid and enforceable provision which will achieve, to the extent possible, the economic, business and other purposes of the invalid, illegal or unenforceable portion.

2. **Warranty of Capacity to Execute Agreement.** Each of the undersigned Parties hereto represents and warrants that each has the right and full authority to execute this Agreement.

3. **No Assignments.** The Parties shall not assign or transfer any rights under this Agreement without prior written consent of the other Party. Any attempted assignment shall be void.

4. **Governing Law and Venue.** This Agreement and the rights and obligations of the Parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. The Parties consent to the jurisdiction and venue for any action for enforcement of this Agreement exclusively in the Eighth Judicial District Court, Clark County, Nevada.

5. **Third Party Beneficiary.** It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof a third-party beneficiary status hereunder, or to authorize anyone not a Party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

6. **Entire Agreement.** This Agreement constitutes the entire agreement of the Parties and as such is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless otherwise expressly authorized by the terms of this Agreement, no modification or amendment to this Agreement shall be binding upon the Parties unless the same is in writing and signed by the respective Parties hereto.

7. **Counterparts.** This Agreement may be executed in counterparts, each of which will constitute an original, and all of which taken together will constitute one and the same instrument.

8. **Captions and Headings.** Captions and heading are used for reference only and shall not be used in construing or interpreting this Agreement. All recitals set forth at the beginning of the Agreement are, by this reference, fully incorporated into this Agreement. All exhibits, if any, referred to in this Agreement are deemed fully incorporated herein. As used herein (i) the singular shall include the plural (and vice versa) and the masculine or neuter gender shall include the feminine gender (and vice versa) as the contract may require; (ii) locative adverbs such as "herein", "hereto", and "hereunder" shall refer to this Agreement in its entirety and not to any specific section or paragraph; (iii) the terms "include", "including", and similar terms shall be construed as though following immediately by the phrase "but not limited to"; and (iv) the terms "party" and "parties" refer only to the named party or parties to this Agreement unless the context expressly requires otherwise.

9. **Waiver.** Neither the failure of any Party to insist upon the timely or full performance of any of the terms and conditions of this Agreement, nor the waiver of any breach of any of the terms and conditions of this Agreement, shall be construed as thereafter waiving any such terms and conditions, but these shall be construed as thereafter waiving any such terms and conditions, but these shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

10. **Further Assurances and Documents.** Each Party shall promptly do any act or execute and deliver any documents reasonably necessary to comply with their respective obligations under this Agreement in order to carry out the intent of the Parties in consummating the transaction.

11. **Mutually Drafted.** The Parties stipulate and agree that all Parties have jointly participated in the negotiation and drafting of this Agreement upon advice of their own

independent counsel or that they had had the opportunity to do so, and this Agreement shall be construed fairly and equally as to all Parties as if drafted jointly by them. The Parties hereby irrevocably waive the benefit of any rule of the contract construction which disfavors the drafter of any agreement.

12. **No Discrimination**. In connection with the performance of work under this Agreement, the Parties agree not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation, gender identity or expression, or age, including, without limitation, with regard to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including without limitation, apprenticeship. The Parties further agree to insert this provision in all contracts and subcontracts made hereunder, except subcontracts for standard commercial supplies or raw materials.

[SIGNATURE APPEARS ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year shown below,

CLARK COUNTY

BOARD OF COMMISSIONERS

Marilyn Kirkpatrick, Chair

Date

DONATOR

REBUILDING TOGETHER SOUTHERN
NEVADA

Bob Cleveland
Executive Director

9/2/21

Date

ATTEST

Lynn Marie Goya, Clerk

Date

Approved as to Form:

DISTRICT ATTORNEY

Mary-Anne Miller

County Counsel for District Attorney

9/5/21

Date

EXHIBIT A



EXHIBIT B



RTSNV / Republic Services / Ruiter Construction Sunrise Park Project Scope of Work

Oct 2: RS volunteers will remove both existing sets of back stops / dugouts / bleacher and dispose of them.

On Oct 4: Ruiter Construction and their subcontractors will begin:

- Remove any remaining concrete from fence posts at old back stops.
- Remove existing concrete pad North East of parking lot (in grass).
- Install new 16' high backstop & wing fences. 8' high sideline fencing. 8' high dugout fencing per specs provided by Clark County (only one back stop is being installed).
- Install Concrete Sidewalks, Bleacher Pads and Dugout Floors (concrete to be laid per 03 30 00 cast-in-place concrete specs) The sidewalks will be to allow accessibility from two locations in the parking lot to both sets of bleachers and both dugouts.
- Install 2 sets of 3 row bleachers (3 row bleachers per Ron Carrington's team as a safer option) (bleachers will be CC per Site Furnishing Specs 32 33 00).
- Install 1 team bench in each dugout (benches will be per CC Site Furnishing Specs 32 33 00).

EXHIBIT C

