

RFP 6060988-22  
EXHIBIT C OF THE RFP  
CONSTRUCTION SERVICES CONTRACT

CLARK COUNTY, NEVADA  
CONSTRUCTION SERVICES

CLARK COUNTY DETENTION CENTER:  
SOUTH TOWER FACILITY RENOVATION  
RFP NO. 606098-22

NEVADA STATE LABOR COMMISSION PWP NUMBER: CL-2022-438  
RP.D0920057

<b>SLETTEN CONSTRUCTION OF NEVADA, INC.</b>
NAME OF FIRM
Josh Guisti, Vice President
DESIGNATED CONTACT, NAME AND TITLE (Please type or print)
600 South Las Vegas Boulevard, Suite 700 Las Vegas, Nevada 89101
ADDRESS OF FIRM INCLUDING CITY, STATE AND ZIP CODE
(702) 739-8770
(AREA CODE) AND TELEPHONE NUMBER
(702) 739-9932
(AREA CODE) AND FAX NUMBER
<u>jguisti@sletteninc.com</u>
E-MAIL ADDRESS

CLARK COUNTY DETENTION CENTER: SOUTH TOWER FACILITY RENOVATION

This Contract is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2023, by and between CLARK COUNTY, NEVADA (hereinafter referred to as COUNTY or Owner), and SLETTEN CONSTRUCTION OF NEVADA, INC. (hereinafter referred to as CONTRACTOR or CMAR), for Clark County Detention Center: South Tower Facility Renovation (hereinafter referred to as PROJECT).

WITNESSETH:

WHEREAS, CONTRACTOR has the required licenses and/or authorizations pursuant to all federal, State of Nevada and local laws in order to conduct business relative to this Contract.

WHEREAS, Nevada Revised Statute (NRS) 280.290 provides that the Sheriff is the chief law enforcement and administrative officer of the Las Vegas Metropolitan Police Department (LVMPD) and shall continue to perform all of his duties as Sheriff; and

WHEREAS, NRS 211.030 provides that the Sheriff is the custodian of the jails in his county and of the prisoners therein and that he shall keep the jails personally, or by his deputy or by a jailer or jailers appointed by him for that purpose, for whose acts he is responsible;

WHEREAS, LVMPD through its Detention Services Division (DSD) operates the Clark County Detention Center (CCDC) and the North Valley Complex (NVC). Accordingly, LVMPD DSD is COUNTY'S representative for all operations of the CCDC and NVC.

NOW, THEREFORE, COUNTY and CONTRACTOR agree as follows:

**SECTION I: TERM OF CONTRACT**

The term of the Contract shall be from date of Notice to Proceed through 1,581 calendar days. During this period, CONTRACTOR agrees to provide services as required by COUNTY within the scope of this Contract. COUNTY reserves the right to extend the Contract for up to an additional four (4) months for its convenience.

**SECTION II: COMPENSATION AND TERMS OF PAYMENT**

A. Contract Amount

For furnishing all labor, materials, equipment, tools and services and for doing everything required by this Contract and the other Contract documents, the Owner will pay, and the CMAR shall accept the Contract Price, as defined in the General Conditions, which in no event shall exceed the **Guaranteed Maximum Price of \$64,590,478.87**. The Guaranteed Maximum Price (GMP) includes Cost of the Work, General Conditions, CMAR Fee, CMAR Contingency, and Insurance and Bonds. The total Contract Amount of **\$71,750,478.87** includes the GMP listed above and an Owner's Contingency & Allowance(s) of **\$7,160,000.00**. Use of the Owner Contingency and Allowance(s) may only be authorized through Owner- approved change orders. The aforementioned amount is subject to increase or decrease as provided in the Contract. The increase or decrease in the GMP resulting from a change in the work shall be determined by the change in Cost of the Work plus the percentage fee set forth below.

The CMAR's Guaranteed Maximum Price (GMP) for the entire work on the Project consists of:

A. Cost of the Work (excluding General Conditions)	\$51,575,134.50
B. General Conditions 10.85%	\$5,597,333.00
C. CMAR's Fee 5.50%	\$3,301,710.00
D. CMAR's Contingency 5.00%	\$2,858,623.37
E. Insurance and Bonds 1.95%	\$1,257,678.00
<b>Total Guaranteed Maximum Price</b>	<b>\$64,590,478.87</b>

Percentage Split of GMP Savings: Owner: 70% CMAR: 30%

If the total payment of the Cost of the Work plus General Conditions, CMAR's fee, and Insurance and Bonds is less than the GMP, the difference shall be the shared savings. Actual payment of the CMAR's shared savings shall be paid after final costs are reconciled, and 30 days after substantial completion, but prior to the final project payment.

1. Cost of the Work

- a. The Cost of the Work includes wages paid, but not bonuses paid, for labor in the direct employ of the CMAR in the performance of the work, exclusive of the labor that is to be included in the General Conditions. Labor rates, including fringe benefits, shall be in conformance with the applicable Prevailing Wage Rates as published by the Nevada State Labor Commission for this Project. This includes labor and management of CMAR self-performed construction work.
- b. The Cost of the Work includes employees benefits and taxes for employees including, but not limited to, unemployment compensation, social security, health, welfare, retirement, and other fringe benefits as required by law, labor agreements, or paid under the CMAR's standard personnel policy, insofar as such costs are actually paid to employees of the CMAR detailed in subsection above who are engaged in the work for employees.
- c. The Cost of the Work includes the cost of all materials, supplies, and equipment incorporated in the cost of the work, including costs of certificates of inspection and testing, transportation, storage, and handling, excluding testing and inspections required to be paid for directly by Owner.
- d. The Cost of the Work includes all payments made by the CMAR to the Subcontractors and suppliers for the cost of the work performed under the Contract.
- e. The Cost of the Work includes all costs directly incurred in the performance of the work or in connection with the Project, and not included in the CMAR's Fee, which are reasonably inferable from the Contract documents as necessary to produce the intended results and not already included in the General Conditions, CMAR Fee or CMAR Contingency.
- f. Sales, use, gross receipts or other taxes, tariffs or duties related to the cost of the work for which the CMAR is liable and not already included in the General Conditions, CMAR Fee or CMAR Contingency.
- g. The CMAR's Cost of the Work includes the cost (including transportation and maintenance) of all supplies, equipment, temporary facilities, and hand tools (not owned by workers) that are used or consumed in the performance of the work.
- h. The CMAR's Cost of the Work includes rental charges for all necessary machinery and equipment, exclusive of hand tools owned by workers, used for the work, whether rented from the CMAR or others, including installation, repair and replacement, dismantling, removal, maintenance, transportation, and delivery costs at rates consistent with those prevailing in the area.
- i. CMAR's Cost of the Work includes all temporary water, power, and fuel costs necessary for the work.
- j. CMAR's Cost of the Work includes all costs for removal of all generated non-hazardous substances, debris, and waste materials.

2. CMAR's General Conditions

- a. The CMAR's General Conditions includes salaries of CMAR's management and administrative employees when stationed at the field office or offices designated at principal office for management of this project, in whatever capacity employed (excluding construction labor and management of CMAR self-performed construction work), employees engaged on the road expediting the production or transportation of material and equipment, and employees from the principal or branch office performing jobsite functions while located at the principal office; including, by way of example and not limitation, the CMAR's Project manager, Project engineer, Project coordinator, Project estimator, Project scheduler and Project superintendent.
- b. The CMAR's General Conditions includes the cost of CMAR's management and administrative employees including, but not limited to, unemployment compensation, social security, health, welfare, retirement, and other fringe benefits as required by law, labor agreements, or paid under the CMAR's standard personnel policy, insofar as such costs are actually paid to employees of the CMAR detailed in subsection a above who are engaged in the work for employees.

- c. The CMAR's General Conditions includes sales, use, gross receipts, or other taxes, tariffs, or duties related to the work for which the CMAR is liable, as they specifically relate to the items included in the General Conditions cost line item.
- d. The CMAR's General Conditions includes all costs associated with establishing, equipping, operating, maintaining, and demobilizing the specified field office(s).
- e. The CMAR's General Conditions includes all costs for reproduction, photographs, fax transmissions, long distance telephone calls, data processing services, postage, express delivery charges and on-site telephone service at the CMAR's field office.
- f. The CMAR's General Conditions include all costs related to management of the CMAR's safety program.
- g. The CMAR's General Conditions include the cost of CMAR bonding as stipulated herein, and broken out separately from the General Conditions in the fee breakdown.
- h. The CMAR's General Conditions include all required permits, fees, licenses, and tests not paid by the Owner.
- i. The CMAR's General Conditions include the CMAR's cost of insurance as stipulated here in, and broken out separately from the General Conditions in the fee breakdown.
- j. The CMAR's General Conditions shall not include travel, and hotel expenses for the CMAR's personnel incurred in connection with the work unless specifically approved in writing by the Owner.

3. CMAR's Fee

- a. The CMAR's Fee includes salaries and other mandatory or customary compensation of the CMAR's employees at its principal and branch offices, except employees assigned to the Project at the principal office. Specifically excluded are CMAR's personnel paid under CMAR's General Conditions.
- b. The CMAR's Fee includes general and administrative expenses of the CMAR's principal and branch offices other than the field office.
- c. The CMAR's Fee includes the CMAR's capital expenses, including interest on the CMAR's capital employed for the work.
- d. The CMAR's Fee includes the CMAR's profit.
- e. The CMAR's Fee excludes CMAR General Conditions (and related items) as listed above.

4. CMAR's Contingency (and related terms)

- a. The CMAR's Contingency may be used to fund the following increases which are properly reimbursable as Cost of the Work but not the basis for an adjustment to the GMP:
  - i. Increases in the Cost of the Work identified through the refinement, development and completion of the Contract documents or procurement of the work, including increases in subcontractor or supplier costs, after acceptance by the Owner of the GMP and execution of this Contract. Decreases in the Cost of the Work shall transfer to the CMAR Contingency.
  - ii. Increases in the Cost of the Work for concealed conditions that can be reasonably inferred from the construction documents and/or the work.
  - iii. Rework by the CMAR that is not a result of the CMAR's or Subcontractor's negligence or lack of coordination or communication with the Consultant or trade Subcontractors.
  - iv. Increase in the cost of the General Conditions. Decreases in the cost of the General Conditions shall transfer to the CMAR Contingency.
  - v. Any deductible incurred as a result of a Builder's Risk Insurance claim.
- b. The CMAR's Contingency shall not be used to fund the following:
  - i. Design intent of the Contract documents that reasonably should have been included in the Cost of the Work at the time of CMAR's solicitation of bids.
  - ii. Design omissions or corrections which the CMAR could have reasonably identified through a

reasonable constructability check and coordination review will be resolved on a case-by-case basis.

iii. Increases in the Cost of the Work as a result of the CMAR's or Subcontractor's negligence or lack of coordination or communication with the Consultant or trade Subcontractors.

c. For each use of the CMAR's Contingency, the CMAR shall:

i. Notify the Owner in writing no later than fourteen (14) days after the event or first knowledge of the cause that results in a request to use the CMAR Contingency;

ii. Gain Owner approval of the use of the CMAR Contingency prior to the expenditure(s) in excess of \$100,000 (Owner's approval shall not be unreasonably withheld);

iii. Provide backup documentation as requested by the Owner to justify the use and amount of the CMAR Contingency request; and

iv. Document the approval of the expenditure of the CMAR Contingency through the use of a form acceptable to the Owner.

5. Owner's Contingency and Allowance

a. The Owner's Contingency shall be used to fund the following:

i. Increase in the Cost of the Work as a result of errors and omissions of the Consultant that could not have been reasonably discovered by the CMAR through a reasonable constructability check and coordination review of the construction documents by the CMAR during the discharge of the CMAR's pre-construction duties.

ii. Increases in the Cost of the Work as a result of Building Code compliance or outside agency requirements identified through the refinement, development and completion of the Contract documents after acceptance by the Owner of the GMP and execution of this Contract or during construction of the work, including increases in Subcontractor or Supplier costs.

iii. Increases in the Cost of the Work due to an unforeseen condition that could not be reasonably foreseeable from the Contract documents.

iv. Increases in the Cost of the Work due to an unavoidable event, including weather, that arises and that could not have been anticipated from the Contract documents.

v. Increase in the Cost of the Work the Owner deems necessary to maximize project results (programming, efficiency, life cycle, value etc.).

vi. Use of Owner's Contingency will increase the Cost of the Work and GMP accordingly. Any portion of the Owner's Contingency that remains when the work is completed belongs to the owner.

b. The Owner's Allowance shall be used to fund the following:

i. The Owner's Allowance is a specific cost designated for use to accommodate scope not bid at the time of execution of the GMP, including, but not limited to, masonry, paint prep, and framing. Use of Allowance will increase the Cost of the Work and the GMP accordingly. Any portion of the Allowance that remains when the work is completed belongs to the Owner.

B. Progress Payments

Before submitting an Application for Payment (Final or Partial) CONTRACTOR shall reach an agreement with the Project Manager concerning the percentage complete of the Scope of Work and the dollar value for which the Application for Payment may be submitted. On or before the twenty-fifth (25th) day of each month, CMAR shall prepare and submit to the Owner for review and approval an Application for Payment for the total actual costs, Contingency costs and lump sum amounts due with respect to the work performed since the preceding pay period, plus that portion of the CMAR's fee earned during that period. Each Application for Payment shall include in the supporting documentation a narrative and schedule of all authorized and future contingency uses. Contingency reconciliation shall be submitted monthly with the CMAR's Application for Payment.

C. Release of Retention

Not more than 95 percent of the amount of any progress payment must be paid until 50 percent of the work required by CONTRACTOR has been performed. The amount of retention with respect to progress payments shall be five percent (5%) until the work is 50 percent complete. After the work is 50 percent complete, no further amount shall be retained from future progress payments, provided CONTRACTOR is making satisfactory progress. In the event of unsatisfactory progress, COUNTY shall retain five percent (5%) from any progress payments. COUNTY, or COUNTY representative shall determine when the work is 50 percent complete.

The specified retention amount will be released following COUNTY'S issuance/approval of the Notice of Completion, provided that the following conditions are met:

1. All punch list items have been completed.
2. A Certificate of Occupancy or temporary Certificate of Occupancy has been received (if applicable).
3. Final record drawings and specifications have been submitted (if applicable).
4. No known premium delinquency exists with CONTRACTOR'S workers' compensation insurer.
5. All required documentation has been submitted to COUNTY and no request has been made to COUNTY by the Labor Commissioner, to hold retention.

COUNTY may at its discretion, withhold only the estimated portion of the retention monies needed to finish any of the five uncompleted conditions as specified above, and only with written notice to CONTRACTOR. The difference of the retention may then be paid.

D. Terms of Payments

1. Each invoice received by COUNTY must include a Progress Report based on actual work performed to date in accordance with the completion of tasks indicated in the Scope of Work.
2. Payment of invoices will be made within thirty (30) calendar days after receipt of an accurate invoice that has been reviewed and approved COUNTY as it conforms to Section II. B above.
3. COUNTY, at its discretion, may not approve or issue payment on invoices if CONTRACTOR fails to provide the following information required on each invoice:
  - a. The title of the PROJECT, Scope of Work, COUNTY'S Contract Number, Project Number, Purchase Order Number, Invoice Date, Invoice Period, Invoice Number, and the Company Name, Payment Remittance Address, Telephone Number, Itemized Pricing.
  - b. COUNTY'S representative shall notify CONTRACTOR in writing within fourteen (14) calendar days of any disputed amount included on the invoice. CONTRACTOR must submit a new invoice for the undisputed amount which will be paid in accordance with paragraph D.2 above. Upon mutual resolution of the disputed amount CONTRACTOR will submit a new invoice for the agreed to amount and payment will be made in accordance with paragraph D.2 above.
4. No penalty will be imposed on COUNTY if COUNTY fails to pay CONTRACTOR within thirty (30) calendar days after receipt of a properly documented invoice, and COUNTY will receive no discount for payment within that period.
5. In the event that legal action is taken by COUNTY or CONTRACTOR based on a disputed payment, the prevailing party shall be entitled to reasonable attorneys' fees and costs subject to COUNTY'S available unencumbered budgeted appropriations for the PROJECT.
6. COUNTY shall subtract from any payment made to CONTRACTOR all damages, costs and expenses caused by CONTRACTOR'S negligence, resulting from or arising out of errors or omissions in CONTRACTOR'S work products, which have not been previously paid to CONTRACTOR.
7. COUNTY shall not provide payment on any invoice CONTRACTOR submits after six (6) months from the date CONTRACTOR performs services, provides deliverables, and/or meets milestones, as agreed upon in Exhibit A, Scope of Work.

8. Invoices shall be submitted to [rpmdcinvoices@clarkcountynv.gov](mailto:rpmdcinvoices@clarkcountynv.gov) and copied to the County's project representative.
9. COUNTY offers electronic payment to all suppliers. Payments will be deposited directly into your bank account via the Automated Clearing House (ACH) network. CONTRACTOR will be provided information on how to enroll at time of award.

E. COUNTY'S Fiscal Limitations

1. The content of this section shall apply to the entire Contract and shall take precedence over any conflicting terms and conditions and shall limit COUNTY'S financial responsibility as indicated in Items 2 and 3 below.
2. Notwithstanding any other provisions of this Contract, this Contract shall terminate and COUNTY'S obligations under it shall be extinguished at the end of the fiscal year in which COUNTY fails to appropriate monies for the ensuing fiscal year sufficient for the payment of all amounts which will then become due.
3. COUNTY'S total liability for all charges for services which may become due under this Contract is limited to the total maximum expenditure(s) authorized in COUNTY'S purchase order(s) to CONTRACTOR.

**SECTION III: SCOPE OF WORK**

Services to be performed by CONTRACTOR for the PROJECT shall consist of the work described in the Scope of Work as set forth in **Exhibit A** of this Contract, attached hereto.

**SECTION IV: RESPONSIBILITY OF CONTRACTOR**

- A. It is understood that in the performance of the services herein provided for, CONTRACTOR shall be, and is, an independent contractor, and is not an agent, representative or employee of COUNTY and shall furnish such services in its own manner and method except as required by this Contract. Further, CONTRACTOR has and shall retain the right to exercise full control over the employment, direction, compensation, and discharge of all persons employed by CONTRACTOR in the performance of the services hereunder.
- B. CONTRACTOR shall be solely responsible for, and shall indemnify, defend, and hold COUNTY harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, demands, and regulations of any nature whatsoever.
- C. CONTRACTOR shall appoint a Manager, upon written acceptance by COUNTY, who will manage the performance of services. All of the services specified by this Contract shall be performed by the Manager, or by CONTRACTOR'S associates and employees under the personal supervision of the Manager. Should the Manager, or any employee of CONTRACTOR be unable to complete his or her responsibility for any reason, CONTRACTOR must obtain written approval by COUNTY prior to replacing him or her with another equally qualified person. If CONTRACTOR fails to make a required replacement within thirty (30) calendar days, COUNTY may terminate this Contract for default.
- D. CONTRACTOR has, or will, retain such employees as it may need to perform the services required by this Contract. Such employees shall not be employed by COUNTY.
- E. CONTRACTOR agrees that its officers and employees will cooperate with COUNTY in the performance of services under this Contract and will be available for consultation with COUNTY at such reasonable times with advance notice as to not conflict with their other responsibilities.
- F. CONTRACTOR will follow COUNTY'S standard procedures as followed by COUNTY'S staff in regard to programming changes; testing; change control; and other similar activities.
- G. CONTRACTOR shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by CONTRACTOR, its subcontractors and its and their principals, officers, employees and agents under this Contract. In performing the specified services, CONTRACTOR shall follow practices consistent with generally accepted professional and technical standards.

- H. It shall be the duty of CONTRACTOR to assure that all products of its effort are technically sound and in conformance with all pertinent Federal, State and Local statutes, codes, ordinances, resolutions, and other regulations. CONTRACTOR will not produce a work product which violates or infringes on any copyright or patent rights. CONTRACTOR shall, without additional compensation, correct or revise any errors or omissions in its work products.
1. Permitted or required approval by COUNTY of any products or services furnished by CONTRACTOR shall not in any way relieve CONTRACTOR of responsibility for the professional and technical accuracy and adequacy of its work.
  2. COUNTY's review, approval, acceptance, or payment for any of CONTRACTOR'S services herein shall not be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and CONTRACTOR shall be and remain liable in accordance with the terms of this Contract and applicable law for all damages to COUNTY caused by CONTRACTOR'S performance or failures to perform under this Contract.
- I. All materials, information, and documents, whether finished, unfinished, drafted, developed, prepared, completed, or acquired by CONTRACTOR for COUNTY relating to the services to be performed hereunder and not otherwise used or useful in connection with services previously rendered, or services to be rendered, by CONTRACTOR to parties other than COUNTY shall become the property of COUNTY and shall be delivered to COUNTY'S representative upon completion or termination of this Contract, whichever comes first. CONTRACTOR shall not be liable for damages, claims, and losses arising out of any reuse of any work products on any other project conducted by COUNTY. COUNTY shall have the right to reproduce all documentation supplied pursuant to this Contract.
- J. The rights and remedies of COUNTY provided for under this section are in addition to any other rights and remedies provided by law or under other sections of this Contract.
- K. Prison Rape Elimination Act Compliance  
CONTRACTOR must comply with the Prison Rape Elimination Act (PREA) of 2003 (Federal Law 42 U.S.C. 15601 et.seq.), with all applicable PREA standards, with all applicable policies related to PREA and standards related to PREA for preventing, detecting, monitoring, investigating, and eradicating any form of sexual abuse within Clark County Detention Center (CCDC) or North Valley Complex (NVC) facilities/offices owned, operated, or contracted. CONTRACTOR acknowledges that, in addition to "self-monitoring requirements" Detention Services Division (DSD) will conduct announced or unannounced, compliance monitoring to include "on-site" monitoring. Failure to comply with PREA, including PREA standards and DSD policies may result in termination of this Contract.
- L. Detention Facilities  
Nevada Revised Statute (NRS) 280.290 provides that the Sheriff is the chief law enforcement and administrative officer of the Las Vegas Metropolitan Police Department (LVMPD) and shall continue to perform all of his duties as Sheriff; and NRS 211.030 provides that the Sheriff is the custodian of the jails in his county and of the prisoners therein and that he shall keep the jails personally, or by his deputy or by a jailer or jailers appointed by him for that purpose, for whose acts he is responsible; LVMPD through its Detention Services Division (DSD) operates the Clark County Detention Center (CCDC) and the North Valley Complex (NVC). Accordingly, LVMPD DSD is COUNTY'S representative for all operations of the CCDC and NVC.
- M. CONTRACTOR shall be fully and solely responsible for safety and health conditions for conducting all operations under this Contract and at all times in such a manner as to avoid the risk of endangerment to health, bodily harm to persons, and damage to property. CONTRACTOR shall continually and diligently inspect all equipment, materials and work to discover any conditions which might involve such risks and shall be solely responsible for discovery and correction of any such conditions. CONTRACTOR shall furnish all safety equipment, supplies and instructions required for the work and enforce the proper use of such by its employees, agents, subcontractors and any and all sub-tier levels and suppliers. CONTRACTOR shall notify COUNTY in writing of the name of their assign employee responsible for safety and health including a twenty-four (24) hour telephone number prior to commencement of work. CONTRACTOR shall

comply with all requirements of Nevada Revised Statute Chapter 618, Occupational Safety and Health, Nevada Administrative Code Chapter 618 and have established an active Safety Program in accordance therewith.

#### **SECTION V: RESPONSIBILITY OF COUNTY**

- A. COUNTY agrees that its officers and employees will cooperate with CONTRACTOR in the performance of services under this Contract and will be available for consultation with CONTRACTOR at such reasonable times with advance notice as to not conflict with their other responsibilities.
- B. The services performed by CONTRACTOR under this Contract shall be subject to review for compliance with the terms of this Contract by COUNTY'S representative, //COORD//, //CODEPT//, telephone number (702) //XXX-XXXX// or their designee. COUNTY'S representative may delegate any or all of his responsibilities under this Contract to appropriate staff members and shall so inform CONTRACTOR by written notice before the effective date of each such delegation.
- C. The review comments of COUNTY'S representative may be reported in writing as needed to CONTRACTOR. It is understood that COUNTY'S representative's review comments do not relieve CONTRACTOR from the responsibility for the professional and technical accuracy of all work delivered under this Contract.
- D. COUNTY shall assist CONTRACTOR in obtaining data on documents from public officers or agencies, and from private citizens and/or business firms, whenever such material is necessary for the completion of the services specified by this Contract.
- E. CONTRACTOR will not be responsible for accuracy of information or data supplied by COUNTY or other sources to the extent such information or data would be relied upon by a reasonably prudent CONTRACTOR.

#### **SECTION VI: TIME SCHEDULE**

- A. Time is of the essence and failure to meet the specified time to complete the work to be performed shall constitute a breach of the Contract and may result in termination of the Contract.

#### **SECTION VII: SUSPENSION AND TERMINATION**

- A. Termination by COUNTY for Cause

COUNTY may terminate the Contract for Construction if Contractor:

- a) Fails to maintain Bonding, Nevada State Contractor's Board License, Worker's Compensation Insurance, insurance coverage for limits as defined in the contract documents; or
- b) Persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials; or
- c) Persistently disregards laws, ordinances, or rules, regulations or order of a public authority having jurisdiction; or
- d) Has otherwise materially breached the Contract.

When any of the above reasons exist, COUNTY may without prejudice to any other rights or remedies of COUNTY and after giving Contractor and Contractor's Surety, if any, **7 business days** advance written notice, terminate the contract with Contractor and may, subject to any prior rights of the Surety:

- a) Take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by Contractor;
- b) Accept assignment of Subcontractors pursuant to this Contract (contingent assignment of subcontracts to COUNTY if Contract is terminated); and,
- c) Finish the work by whatever reasonable method COUNTY may deem expedient.

When COUNTY terminates the Contract for one of the reasons stated in this section "Termination by COUNTY for Cause," Contractor shall be entitled to receive payment only on work completed and accepted by COUNTY as of that termination date.

If the costs of finishing the work, including expenses made necessary thereby, exceed the Contract amount, Contractor shall pay the difference to COUNTY. The amount to be paid to COUNTY shall survive Termination of the Contract.

B. Suspension by COUNTY for Convenience

1. COUNTY may, without cause, order Contractor in writing to suspend, delay or interrupt the work in whole or in part for such period of time as COUNTY may determine.
2. An adjustment shall be made for increase in the cost of performance of the requirements of the Contract documents, including profit on the increased cost of performance, caused by suspension, delay or interruption. No adjustment shall be made to the extent:
  - a) That performance is, was or would have been so suspended, delayed or interrupted by another cause for which Contractor is responsible; or
  - b) That an equitable adjustment is made or denied under another provision of the Contract.
3. Adjustments made in the cost of performance must have a mutually agreed fixed price.

C. Termination for Convenience by COUNTY

Prior to, or during the performance of the work, COUNTY reserves the right to terminate the contract for its convenience. Upon such an occurrence, the following procedures will be adhered to:

1. COUNTY will immediately notify the Architect/Engineer and Contractor in writing specifying the effective termination date of the Contract.
2. After receipt of the Notice of Termination, Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due at the point in the Contract.
  - a) Stop all work.
  - b) Place no further subcontracts or orders for materials or services.
  - c) Terminate all subcontracts.
  - d) Cancel all material and equipment orders as applicable.
  - e) Take action that is necessary to protect and preserve all property related to this Contract which is in the possession of Contractor.
3. Within 180 days of the date of the Notice of Termination, Contractor shall submit a final termination settlement proposal to COUNTY based upon costs incurred up to the date of termination, reasonable profit on work done only, and reasonable demobilization costs. If Contractor fails to submit the proposal within the time allowed, COUNTY may determine the amount due to Contractor because of the termination and shall pay the determined amount to Contractor.

**SECTION VIII: INSURANCE**

- A. CONTRACTOR shall obtain and maintain the insurance coverage required in **Exhibit F** incorporated herein by this reference. CONTRACTOR shall comply with the terms and conditions set forth in **Exhibit F** and shall include the cost of the insurance coverage in their prices.
  - B. If CONTRACTOR fails to maintain any of the insurance coverage required herein, COUNTY may withhold payment, order CONTRACTOR to stop the work, declare CONTRACTOR in breach, suspend or terminate Contract.
- BONDS**
- C. CONTRACTOR shall obtain a Performance Bond, Labor and Material Payment Bond and Guaranty Bond in the amount of 100% of the contract price for each. These bonds shall remain in effect for the duration of the Contract.
  - D. CONTRACTOR shall obtain the bonds and maintain through the Contract term the insurance coverage required in **Exhibit F**, incorporated herein by this reference. CONTRACTOR shall comply with the terms and conditions set forth in **Exhibit F**. The cost of the insurance coverage and bonds shall be included in the Adjustment Factor.
  - E. Insurance and surety companies issuing certificates of insurance and bonds must be licensed by the State of Nevada Insurance Division and certificates of insurance and bonds must be issued by an appointed producer of insurance pursuant to Nevada Revised Statute Chapter 683A.
  - F. If CONTRACTOR fails to keep the bonds or insurance policies in effect or allows them to lapse, CONTRACTOR will pay to COUNTY the amount of \$100 per calendar day as liquidated damages until insurance and/or bonds are restored.

**SECTION IX: NOTICES**

Any notice required to be given hereunder shall be deemed to have been given when received by the party to whom it is directed by personal service, hand delivery, certified U.S. mail, return receipt requested or facsimile, at the following addresses:

TO COUNTY: Clark County Government Center  
Attn: Purchasing Manager  
500 South Grand Central Parkway  
Las Vegas, Nevada 89155

TO CONTRACTOR: Sletten Construction of Nevada, Inc.  
Attn: Josh Guisti, Vice President  
600 South Las Vegas Boulevard, Suite 700  
Las Vegas, Nevada 89101

**SECTION X: MISCELLANEOUS**

A. Independent Contractor

CONTRACTOR acknowledges that CONTRACTOR and any subcontractors, agents or employees employed by CONTRACTOR shall not, under any circumstances, be considered employees of COUNTY, and that they shall not be entitled to any of the benefits or rights afforded employees of COUNTY, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits. COUNTY will not provide or pay for any liability or medical insurance, retirement contributions or any other benefits for or on behalf of CONTRACTOR or any of its officers, employees or other agents.

B. Immigration Reform and Control Act

In accordance with the Immigration Reform and Control Act of 1986, CONTRACTOR agrees that it will not employ unauthorized aliens in the performance of this Contract.

C. Non-Discrimination/Public Funds

The Board of County Commissioners is committed to promoting full and equal business opportunity for all persons doing business in Clark County. CONTRACTOR acknowledges that COUNTY has an obligation to ensure that public funds are not used to subsidize private discrimination. CONTRACTOR recognizes that if they or their subcontractors are found guilty by an appropriate authority of refusing to hire or do business with an individual or company due to reasons of race, color, religion, sex, sexual orientation, gender identity or gender expression, age, disability, national origin, or any other protected status, COUNTY may declare CONTRACTOR in breach of the Contract, terminate the Contract, and designate CONTRACTOR as non-responsible.

D. Assignment

Any attempt by CONTRACTOR to assign or otherwise transfer any interest in this Contract without the prior written consent of COUNTY shall be void.

E. Indemnity

CONTRACTOR does hereby agree to defend, indemnify, and hold harmless COUNTY and Las Vegas Metropolitan Police Department and their employees, officers and agents of COUNTY and Las Vegas Metropolitan Police Department from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of CONTRACTOR or the employees or agents of CONTRACTOR in the performance of this Contract.

F. Governing Law

Nevada law shall govern the interpretation of this Contract.

G. Gratuities

1. COUNTY may, by written notice to CONTRACTOR, terminate this Contract if it is found after notice and hearing by COUNTY that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by

CONTRACTOR or any agent or representative of CONTRACTOR to any officer or employee of COUNTY with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this Contract.

2. In the event this Contract is terminated as provided in paragraph 1 hereof, COUNTY shall be entitled:
  - a. to pursue the same remedies against CONTRACTOR as it could pursue in the event of a breach of this Contract by CONTRACTOR; and
  - b. as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by COUNTY) which shall be not less than three (3) nor more than ten (10) times the costs incurred by CONTRACTOR in providing any such gratuities to any such officer or employee.
3. The rights and remedies of COUNTY provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

H. Audits

The performance of this Contract by CONTRACTOR is subject to multiple audits by COUNTY to ensure contract compliance. CONTRACTOR agrees to provide COUNTY any and all information requested that relates to the performance of this Contract. All requests for information will be in writing to CONTRACTOR. Time is of the essence during the audit process. Failure to provide the information requested within the timeline provided in the written information request may be considered a material breach of Contract and be cause for suspension and/or termination of the Contract. COUNTY shall have the right at all reasonable time during performance of the work under this Contract for a period of seven (7) years after final completion of the work to examine, audit, inspect, review, extract information from and copy all books, records, accounts and other documents of CONTRACTOR relating to this Contract.

I. Covenant

CONTRACTOR covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. CONTRACTOR further covenants, to its knowledge and ability, that in the performance of said services no person having any such interest shall be employed.

J. Confidential Treatment of Information

CONTRACTOR shall preserve in strict confidence any information obtained, assembled or prepared in connection with the performance of this Contract.

K. ADA Requirements

All work performed or services rendered by CONTRACTOR shall comply with the Americans with Disabilities Act standards adopted by Clark County. All facilities built prior to January 26, 1992 must comply with the Uniform Federal Accessibility Standards; and all facilities completed after January 26, 1992 must comply with the Americans with Disabilities Act Accessibility Guidelines.

L. Disclosure of Ownership Form

CONTRACTOR agrees to provide the information on the attached Disclosure of Ownership/Principals form prior to any contract and/or contract amendment to be awarded by the Board of County Commissioners.

M. Authority

COUNTY is bound only by COUNTY agents acting within the actual scope of their authority. COUNTY is not bound by actions of one who has apparent authority to act for COUNTY. The acts of COUNTY agents which exceed their contracting authority do not bind COUNTY.

N. Force Majeure

CONTRACTOR shall be excused from performance hereunder during the time and to the extent that it is prevented from obtaining, delivering, or performing, by acts of God, fire, war, loss or shortage of transportation facilities, lockout or commandeering of raw materials, products, plants or facilities by the government. CONTRACTOR shall provide COUNTY satisfactory evidence that nonperformance is due to cause other than fault or negligence on its part.

O. Severability

If any terms or provisions of Contract shall be found to be illegal or unenforceable, then such term or provision shall be deemed stricken and the remaining portions of Contract shall remain in full force and effect.

P. Non-Endorsement

As a result of the selection of CONTRACTOR to supply goods or services, COUNTY is neither endorsing nor suggesting that CONTRACTOR'S service is the best or only solution. CONTRACTOR agrees to make no reference to COUNTY in any literature, promotional material, brochures, sales presentations, or the like, without the express written consent of COUNTY.

Q. Public Records

COUNTY is a public agency as defined by state law, and as such, is subject to the Nevada Public Records Law (Chapter 239 of the Nevada Revised Statutes). Under the law, all of COUNTY'S records are public records (unless otherwise declared by law to be confidential) and are subject to inspection and copying by any person. All Contract documents are available for review following the award of the Contract.

R. Companies that Boycott Israel

CONTRACTOR certifies that, at the time it signed this Contract, it was not engaged in, and agrees for the duration of the Contract, not to engage in, a boycott of Israel. Boycott of Israel means, refusing to deal or conduct business with, abstaining from dealing or conducting business with, terminating business or business activities with or performing any other action that is intended to limit commercial relations with Israel; or a person or entity doing business in Israel or in territories controlled by Israel, if such an action is taken in a manner that discriminates on the basis of nationality, national origin or religion. It does not include an action which is based on a bona fide business or economic reason; is taken pursuant to a boycott against a public entity of Israel if the boycott is applied in a nondiscriminatory manner; or is taken in compliance with or adherence to calls for a boycott of Israel if that action is authorized in 50 U.S.C. § 4607 or any other federal or state law.

S. State of Nevada Legal Holidays

CONTRACTOR is advised that below there are 10 firm legal holidays and 11 when December 31st falls on Friday.

Martin Luther King's Birthday  
Presidents' Day  
Memorial Day  
Independence Day  
Labor Day  
Nevada Admission Day  
Veteran's Day  
Thanksgiving Day and the Friday After  
Christmas Day  
New Year's Day

CONTRACTOR to verify dates with COUNTY'S representative prior to commencement of the Project.

T. Non-Discrimination and Fair Employment Practices

1. Discrimination:

The Board of County Commissioners is committed to promoting full and equal business opportunity for all persons doing business in Clark County. CONTRACTOR acknowledges that COUNTY has an obligation to ensure that public funds are not used to subsidize private discrimination. CONTRACTOR recognizes that if CONTRACTOR or their Subcontractors are found guilty by an appropriate authority of refusing to hire or do business with an individual or company due to reasons of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, national origin, or any other protected status; COUNTY may declare CONTRACTOR in breach of Contract and terminate Contract.

2. **Fair Employment Practices:**  
 In connection with the performance of work under this Contract, CONTRACTOR agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation, gender identity or expression, age, disability, national origin, or any other protected status. Such agreement shall include, but not be limited to, the following: 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 apprenticeship.  
 Contractor further agrees to insert this provision in all subcontracts hereunder. Any violation of such provision by CONTRACTOR shall constitute a material breach of this Contract.
3. **Close-out Documentation**  
 As a part of the required Contract close-out documentation, CONTRACTOR shall submit a Summary Report of Material Suppliers and Subcontractors listing the name of the Subcontractor, work performed, the Business Enterprise Group (BEG), Ethnicity Status, and Value of the contracts. The close-out document shall be submitted in a manner that substantially meets the format and content of the form attached hereto as Close-out Documentation Summary Report of Subcontractors. See **Exhibit L**.
4. **The Business Enterprise Categories are defined as follows:**
  - a. **MINORITY OWNED BUSINESS ENTERPRISE (MBE):**  
 An independent and continuing business for profit, which performs a commercially useful function and is at least 51 percent owned and controlled by one or more minority persons of African American (AA), Hispanic American (HA), Asian-Pacific American (AX) or Native American (NA) ethnicity.
  - b. **WOMEN OWNED BUSINESS ENTERPRISE (WBE):**  
 An independent and continuing business for profit, which performs a commercially useful function and is at least 51 percent owned and controlled by one or more women.
  - PHYSICALLY CHALLENGED BUSINESS ENTERPRISE (PBE):**  
 An independent and continuing business for profit, which performs a commercially useful function and is at least 51 percent owned and controlled by one or more disabled individuals pursuant to the federal Americans with Disabilities Act.
  - c. **SMALL BUSINESS ENTERPRISE (SBE):**  
 An independent and continuing business for profit which performs a commercially useful function, is not owned and controlled by individuals designated as minority, women, or physically challenged, and where gross annual sales does not exceed \$2,000,000.
  - d. **VETERAN OWNED ENTERPRISE (VET):**  
 A Nevada business at least 51% owned/controlled by a veteran.
  - e. **DISABLED VETERAN OWNED ENTERPRISE (DVET):**  
 A Nevada business at least 51% owned/controlled by a disabled veteran.
  - f. **EMERGING SMALL BUSINESS (ESB):**  
 Certified by the Nevada Governor's Office of Economic Development effective January, 2014. Approved into Nevada Law during the 77th Legislative session as a result of AB294.

The information provided by CONTRACTOR is for COUNTY'S information only, as requested by the Board of County Commissioners.

**U. Notice to Proceed**

**1. Notice to Proceed (for Work)**

After receipt of all required bonds and proof of insurance, and any other required submittals, the Purchasing and Contracts Division will issue a Notice of Award which authorizes Contractor to immediately execute the required contracts with equipment and material supplier(s), required Subcontractors, and apply for and obtain

any necessary permits. The Real Property Management Department shall issue a Notice to Proceed to commence the work.

2. Upon award, CMAR shall commence the work to be performed on the date set by COUNTY'S departmental representative in the written Notice to Proceed, continuing the work in accordance with the approved schedule and shall complete the entire work as defined in General Requirements within 1,581 calendar days from the date specified in the Notice to Proceed. Further, separable portions of the work may be subject to milestone or specific dates as established in this document. Contractor shall complete all work or separable portions of work in accordance with specified milestones or specific dates and in accordance with these specifications. Any costs associated with the overtime, which may be required to complete the project in time, and/or milestones specified shall be solely the responsibility of Contractor and shall have been included in the bid amount(s).

1. In addition, where applicable, reference to time shall be in accordance with Section 108, "Prosecution and Progress" of the Uniform Standard Specifications for Public Works Construction Off-Site Improvements, Clark County Area, Nevada, Third Edition, and revisions thereto.
2. The time specified above represents no overtime requirement. The scheduling of overtime for this project is solely the responsibility of Contractor. COUNTY is not responsible for any additional costs related to overtime work performed.

V. Permits and Fees

CONTRACTOR shall determine and secure and pay for all fees and permits which may include, but not be limited to the following: building permit; plan check fee; dust control permit; sanitation/sewer; storm water pollution, water; tortoise; and other permits, connection and governmental fees; licenses; and all special inspections necessary for proper execution and completion of the work, unless otherwise specified. CONTRACTOR shall direct questions to COUNTY'S designated contacts.

W. Utilities

CONTRACTOR shall, at its expense, arrange for, develop and maintain all utilities in work areas to meet the requirements of the Contract. Such utilities shall be furnished by CONTRACTOR at no additional cost to COUNTY.

X. Standards and Codes

1. Wherever references are made in the Contract to standards or codes in accordance with which work is to be performed or tested, the edition or revision of the standards or codes current on the effective date of this Contract shall apply to the work of the project, unless otherwise expressly set forth. Unless otherwise specified, reference to such standards or codes is solely for implementation of the technical portions of such standards and codes.
2. Where applicable, reference to the Uniform Standard Specifications shall mean the Uniform Standard Specifications for Public Works Construction, Off-Site Improvements, Clark County Area, Nevada, Third Edition and revisions thereof, excluding Sections 102 and 103 of Division One, and/or the latest adopted Editions of the Uniform Building Code, Plumbing Code, Electrical Code, Fire Code, and Mechanical Code.

Y. Taxes

CONTRACTOR shall pay all taxes, levies, duties and assessments of any nature that may be applicable to any work under this Contract. The Contract amount and any approved change orders amounts shall include all taxes imposed by law. CONTRACTOR shall make any and all payroll deductions required by law. CONTRACTOR herein indemnifies and holds COUNTY harmless from any liability regarding any and all such taxes, levies, duties, assessments and deductions.

Z. Patent Indemnity

1. CONTRACTOR hereby indemnifies and shall defend and hold harmless COUNTY, its officers, employees, agents and, if applicable, its construction manager, its officers, and employees, respectively, from and against

all claims, losses, costs, damages, and expenses, including attorney's fees, incurred by COUNTY and its construction manager, respectively, as a result of or in connection with any claims or actions based upon infringement or alleged infringement of any patent and arising out of the use of the equipment or materials furnished under the Contract by CONTRACTOR, or out of the processes or actions employed by, or on behalf of CONTRACTOR in connection with the performance of the Contract. CONTRACTOR shall, at its sole expense, promptly defend against any such claim or action unless directed otherwise by COUNTY or its construction manager; provided that COUNTY or its construction manager shall have notified CONTRACTOR upon becoming aware of such claims or actions and provided further that CONTRACTOR'S aforementioned obligations shall not apply to equipment, materials, or processes furnished or specified by COUNTY or its construction manager.

2. CONTRACTOR shall have the right, in order to avoid such claims or actions, to substitute at its expense non infringing equipment, materials, or processes, or to modify such infringing equipment, materials and processes so they become non infringing, or obtain the necessary licenses to use the infringing equipment, material or processes, provided that such substituted and modified equipment, materials and processes shall meet all the requirements and be subject to all the provisions of this Contract.

AA. Substitutions ("Or Equal")

1. **Policy**

- a. Prior to proposing any substitute material, product, or service, CONTRACTOR shall satisfy itself that the material, product, or service proposed is, in fact, equal to that specified. CONTRACTOR may only request a substitution if a material or product will fit into the space allocated, affords comparable ease of operations, maintenance and service, that the appearance, and longevity is equal to or better than the material or product specified; or that the substitution of such material, product, or service by reason of cost savings, reduced construction time, or similar demonstrable benefit will be in COUNTY'S interest.
- b. The burden of proof of equality of a proposed substitution for a specified material, product, or service shall be upon CONTRACTOR. CONTRACTOR shall support its request with sufficient test data and other means to permit COUNTY to make a fair and equitable decision on the merits of the proposal. CONTRACTOR shall submit drawings, samples, data and certificates for proposed substitute materials. Any material, product, or service by a manufacturer other than those specified or of brand name or model number or of generic species other than those specified will be considered a substitution. COUNTY will be the sole judge of whether or not the substitution is equal in quality, utility and economy to that specified.
- c. Approval of a substitution shall not relieve CONTRACTOR from responsibility for compliance with all requirements of the CONTRACT. CONTRACTOR shall bear the expense for any changes in other parts of the work caused by any substitutions.
- d. Materials, products or service proposed as substitutions for specified items shall be supported by certification of their approval for use by any or all governmental agencies having jurisdiction over use of the specific material, product or service.
- e. Substitutions will not be permitted in those instances where the product is intended to accommodate artistic design, specific function or economy of maintenance.

2. **Procedure**

Should CONTRACTOR wish to use any material, product, or service other than those specified by brand or trade name, it shall, submit a written request for substitution accompanied by all data necessary for COUNTY to determine whether the requested substitution is equal to the specified material, product, or service. The

submission of a request to substitute a material, product, or service gives rise to no obligation on the part of COUNTY to accept such substitute as the equal of that specified.

If the substitute is acceptable, COUNTY will provide written approval to be attached to the project specific PRICE PROPOSAL form by CONTRACTOR prior to submittal to COUNTY for signature.

BB. Delivery, Unloading and Storage

CONTRACTOR shall receive, unload, store in a secure place, and deliver from storage to the construction site all materials and equipment required for the performance of the Contract. The storage facilities and methods of storing shall meet COUNTY'S approval. Materials and equipment subject to degradation by exposure shall be stored in a suitable enclosure provided by CONTRACTOR.

CC. Payment of Material

1. At the discretion of COUNTY, payment for materials on hand may be made when a paid invoice is presented to the Architect/Engineer for inclusion with the estimate, provided the materials meet the requirements of the plans and specifications, and are stored under acceptable storage conditions. Payment for materials on hand does not alter the responsibility of Contractor for all materials until final acceptance of the work.
2. If materials are not specifically purchased for the work, but are taken from Contractor's stock, then in lieu of invoices, there shall be submitted to COUNTY statements accompanied by an affidavit of Contractor, certifying such materials were taken from its stock and the price and transportation claimed represent the actual cost to Contractor.
3. It is understood and agreed that the transfer of title to and COUNTY'S payment of such stored or stockpiled material shall in no way relieve Contractor of its responsibility for furnishing and placing such materials in accordance with the requirements of the Contract, plans, and specifications.

DD. Warranty

1. Unless otherwise provided elsewhere in the Contract, all materials and equipment incorporated into any work covered by the Contract shall be new, and where grade is not specified, shall be of the most suitable grade of their respective kinds for their intended use, and all workmanship shall be in accordance with construction practices acceptable to COUNTY. Unless otherwise provided in the Contract, CONTRACTOR warrants all equipment, materials, and labor furnished or performed under this Contract against defects in design, materials (unless furnished by COUNTY), and workmanship for a period of **12 months** (unless longer guarantees or warranties are provided for in the Contract in which case the longer periods of time shall prevail) from the date of Substantial Completion, regardless of whether the same were furnished or performed by CONTRACTOR or by any of its subcontractors of any tier. Upon receipt of written notice from COUNTY of any defect in any such equipment, materials, or labor during the applicable warranty period, due to defective design, materials or workmanship, the affected item or parts thereof shall be redesigned, repaired or replaced by CONTRACTOR at a time acceptable to COUNTY.
2. CONTRACTOR shall perform such tests as COUNTY may require verifying that such redesign, repairs and replacements comply with the requirements of this Contract. All costs incidental to such redesign, repair, replacement and testing, including the removal of any barrier, necessary to gain access, shall be borne by CONTRACTOR.
3. CONTRACTOR warrants such redesigned, repaired or replaced work against defective design, materials and workmanship for a period of 12 months from and after date of acceptance thereof. Should CONTRACTOR fail to promptly make the necessary redesign, repair, replacement, and tests, COUNTY may perform or cause to

be performed the same at CONTRACTOR'S expense. CONTRACTOR and its surety or sureties shall be liable for the satisfaction and full performance of the warranties as set forth herein.

EE. Prevailing Wages

1. CONTRACTOR and Subcontractors shall be bound by and comply with all federal, state and local laws with regard to minimum wages, overtime work, hiring and discrimination, including NRS 338.020 through 338.090. CONTRACTOR shall ensure that all employees on the work are paid in accordance with the CURRENT PREVAILING WAGE RATES AS APPROVED BY THE STATE LABOR COMMISSIONER, whenever the actual value of the contract totals \$100,000 or more. CONTRACTORS are responsible to identify and use the correct prevailing wage rates, including any addenda, as well as all the forms needed to comply, as specified on the State of Nevada Labor Commissioner's web site: [www.Labor.NV.Gov](http://www.Labor.NV.Gov), or by calling (702) 486-2650. Per NAC 338.040, after a contract has been awarded, the prevailing rates of wages in effect at the time of the opening of bids remains in effect for the duration of the project.
2. In accordance with NRS 338.013.3, CONTRACTOR shall report to the Labor Commissioner and COUNTY the name and address of each subcontractor performing work on the project within 10 days after the subcontractor commences work on the project and the identifying (PWP) number for the public work.
3. In accordance with NRS 338.060 and 338.070, CONTRACTOR shall forfeit as a penalty to COUNTY, amounts specified in NRS 338.060, for each calendar day or portion thereof that each worker employed on COUNTY'S project is paid less than the designated rate for any work done under the contract by CONTRACTOR or any Subcontractor under it. If CONTRACTOR or any Subcontractor on the project fails to submit the certified payroll reports to COUNTY within 15 calendar days after the end of the month, CONTRACTOR shall forfeit as a penalty to COUNTY, amounts specified in NRS 338.060, for each calendar day or portion thereof for each worker employed on the project during the reporting period. The Labor Commissioner shall establish a sliding scale based on the size of CONTRACTOR'S business to determine the amount per worker per day to be imposed. Any Contractor or Subcontractor, or agent or representative thereof, performing work on the project, who neglects to comply with the prevailing wage, is guilty of a misdemeanor. If a penalty is imposed, in addition to any penalties allowed by NRS 338.060, the CONTRACTOR shall reimburse COUNTY for all costs associated with wage complaint investigations for the project, including but not limited to, actual staff time, materials used, and attorneys' fees.
4. In accordance with NRS 338.070 (5) (a) (b) and NRS 338.070 (6), CONTRACTOR and each Subcontractor shall keep or cause to be kept:
  - a. An accurate record showing for each worker employed by CONTRACTOR or Subcontractor;
    1. The name of the worker;
    2. The occupation of the worker;
    3. The gender of the worker, if the worker voluntarily agreed to specify that information pursuant to subsection 4, or an entry indicating that the worker declined to specify such information;
    4. The ethnicity of the worker, if the worker voluntarily agreed to specify that information pursuant to subsection 4, or an entry indicating that the worker declined to specify such information;
    5. If the worker has a driver's license or identification card, an indication of the state or other jurisdiction that issued the license or card; and
    6. The actual per diem, wages, and benefits paid to the worker.
  - b. An additional accurate record showing for each worker employed by CONTRACTOR or Subcontractor who has a driver's license or identification card;
    1. The name of the worker;

2. The driver's license or identification card number of the worker; and
3. The state or other jurisdiction that issued the license or card.

The records maintained pursuant to the requirements indicated above must be open at all reasonable hours to inspection by COUNTY. CONTRACTOR, and all Subcontractors, shall ensure that a copy of each record for each calendar month, together with a cumulative summary of the percentage of workers that hold a valid driver's license or identification card issued by the State of Nevada, is received by COUNTY no later than 15 days after the end of the month. The copy of the record maintained pursuant to paragraph one (1) of this section must be open to public inspection, as provided in NRS 239.010. The copy of the record maintained pursuant to paragraph two (2) of this section is confidential and not open to public inspection. CONTRACTOR, or any Subcontractor or agent or representative thereof, doing work on the Project who neglects to comply with the terms of this provision is guilty of a misdemeanor. A copy of the records of work performed on the Project by CONTRACTOR and each Subcontractor shall be submitted to COUNTY at the following address:

Clark County Government Center  
Purchasing and Contracts Division, 4th Floor  
Attn: Construction Compliance Officer  
500 South Grand Central Parkway  
P.O. Box 551217  
Las Vegas, Nevada 89155-1217

Attached are sample forms that may be used to document the above required information. See **Exhibit G**.

Two years after Project's final payment is made by COUNTY; the records in COUNTY'S possession may be destroyed.

- E. CONTRACTOR shall comply with the requirements of NRS 338.020 and post on the site of the public work in a place generally visible place to the workers, the Nevada Prevailing Wage Rates and all addenda.
- F. Certified Payroll Reports: Pursuant to NRS 338.070, on any public work contract awarded for more than \$100,000, CONTRACTOR and each Subcontractor are required to keep an accurate record showing the name, the occupation and the actual per diem wages and benefits paid to each worker employed by it in connection with the public work.

Each CONTRACTOR and every lower-tier subcontractor will be required to submit certified payrolls and other labor compliance documentation electronically at the discretion of and the manner specified by COUNTY. Each CONTRACTOR and subcontractor will be given a Log On identification and password to access the Clark County reporting system at [www.LCPTracker.net](http://www.LCPTracker.net). In the event that electronic reporting is not required for a project, CONTRACTOR will be notified after the award of the contract.

Use of the LCPTracker system may entail additional data entry of weekly payroll information including; employee identification, labor classification, total hours worked, and hours worked on this project, wage and benefit rates paid, etc. CONTRACTOR'S payroll and accounting software might be capable of generating a 'comma delimited file' that will interface with the software.

This requirement will be 'flowed down' to every lower-tier subcontractor and supplier/vendor required to provide labor compliance documentation.

CONTRACTOR and each Subcontractor are required to submit a copy of the record for each calendar month to COUNTY no later than 15 calendar days after the end of the month for the purposes of public inspection. CONTRACTOR shall be responsible for coordinating the submittal of all the certified payroll reports for the project, including its reports and the reports of all the subcontractors who are performing work on the project. CONTRACTOR shall not withhold from a subcontractor the sums necessary to cover any penalties withheld

from CONTRACTOR by the public body because CONTRACTOR failed to submit certified payroll reports within 15 calendar days after the end of the month if the Subcontractor provided certified payroll reports to CONTRACTOR within 10 calendar days after the end of the month or the date agreed upon by CONTRACTOR and Subcontractor. CONTRACTOR shall submit COUNTY'S copy of its certified payroll and the certified payroll of each of the subcontractors performing work on the project, utilizing LCPTracker or CONTRACTOR shall submit paper copies if notified.

Certified Payroll Reports will be available for public viewing. The Construction Compliance Officer may be contacted at (702) 455-5252 to view the reports.

FF. CONTRACTORS Who Received Preference

If CONTRACTOR submitted a signed and notarized Affidavit, CONTRACTOR must:

1. Each Contract between Contractor and a Subcontractor must provide for the apportionment of liquidated damages to be assessed if a person other than Contractor is responsible for a breach of the Affidavit. The apportionment of liquidated damages must be in proportion to the responsibility of each party for the breach.
2. Submit copies of the vehicle registration for all vehicles used primarily for the public work. For vehicles that are not registered in the State of Nevada, submit documentation confirming that the vehicle is registered and partially apportioned to Nevada pursuant to the International Registration Plan, as adopted by the DMV pursuant to NRS 706.826. The documentation required by this subparagraph shall be provided no later than 30 calendar days following the first use of a vehicle on the Site and shall be supplemented as necessary during the course of the work to comply with the requirements certified by the Affidavit. Attached is a sample form that may be used to submit the documentation. See **Exhibit H**.
3. Submit a monthly report of all Suppliers of materials used for the Project with company name and address. Report shall be submitted no later than 15 calendar days following the end of each month during the course of the Work. A report showing the information in cumulative summary form shall be provided as a condition of Final Completion. See **Exhibit I**.

GG. Employment of Unauthorized Aliens

In accordance with the Immigration Reform and Control Act of 1986, CONTRACTOR agrees that it will not employ unauthorized aliens in the performance of this Contract.

HH. Non-Discrimination / Fair Employment Practices

1. **Discrimination:**

The Board of County Commissioners is committed to promoting full and equal business opportunity for all persons doing business in Clark County. CONTRACTOR acknowledges that COUNTY has an obligation to ensure that public funds are not used to subsidize private discrimination. CONTRACTOR recognizes that if they or their subcontractors are found guilty by an appropriate authority of refusing to hire or do business with an individual or company due to reasons of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, national origin, or any other protected status, COUNTY may declare CONTRACTOR in breach of the Contract, terminate the Contract, and designate CONTRACTOR as non-responsible.
2. **Fair Employment Practices:**

In connection with the performance of work under this Contract, CONTRACTOR agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex or age. Such agreement shall include, but not be limited to, the following: 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 apprenticeship.

CONTRACTOR further agrees to insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials. Any violation of such provision by a Contractor shall constitute a material breach of this Contract.

II. Preferential Employment

All contractors shall comply with the preferential employment provisions of NRS 338.130 for public works contracts. This law requires that, when the qualifications of applicants are equal, that preference be given: First, to honorably discharged soldiers, sailors, and marines of the United States who are citizens of the State of Nevada; second, to other citizens of the State of Nevada. If the provisions of NRS 338.130 are not complied with by CONTRACTOR, this Contract is void, and any failure or refusal to comply with any of the provisions of NRS 338.130 renders this Contract void.

JJ. Reporting of Alleged Violations of The Law

CONTRACTOR should have a written policy that protects employees from retaliation for reporting alleged violations of the law.

KK. Labor Strife

CONTRACTOR shall not cause or condone labor strife that may jeopardize the timely and efficient completion of public construction projects.

LL. Responsibility for Work Security

1. CONTRACTOR shall at all times conduct all operations under the Contract in a manner to avoid the risk of loss, theft, or damage by vandalism, sabotage or damage of other means to any property. CONTRACTOR shall promptly take all reasonable precautions which are necessary and adequate against any conditions which involve a risk of loss, theft or damage to its property, COUNTY'S property, and the work site. CONTRACTOR shall continuously inspect all its work, materials, equipment, and facilities to discover and determine any such conditions and shall be solely responsible for discovery, determination, and correction of any such conditions.
2. CONTRACTOR shall comply with all applicable laws and regulations. CONTRACTOR shall cooperate with COUNTY on all security matters and shall promptly comply with any project security requirements established by COUNTY. Such compliance with these security requirements shall not relieve CONTRACTOR of its responsibility for maintaining proper security for the above-noted items, nor shall it be construed as limiting in any manner CONTRACTOR'S obligation to undertake reasonable action as required to establish and maintain secure conditions at the site.
3. CONTRACTOR shall prepare and maintain accurate reports of incidents of loss, theft or vandalism and shall furnish these reports to COUNTY in a timely manner.

MM. Contractor Site Responsibilities

1. Unless otherwise specifically provided in the Contract, CONTRACTOR shall not do any work that would disrupt or otherwise interfere with the operation of any pipeline, telephone, electric transmission line, ditch or other structure, nor enter upon lands in their natural state until approved by COUNTY. Before CONTRACTOR begins such work, it shall give due notice to COUNTY of its intention to start such work. CONTRACTOR shall not be entitled to any extension of time, or any extra compensation on account of any postponement, interference or delay caused by any such line, ditch or structure on or adjacent to the site of work.
2. CONTRACTOR shall preserve and protect all cultivated and planted areas, and vegetation such as trees, plants, shrubs and grass on or adjacent to the premises, which, as determined by COUNTY, do not unreasonably interfere with the performance of its work through operation of equipment or stockpiling of

materials. All costs in connection with any repairs or restoration necessary or required by reason of any such damage shall be borne by CONTRACTOR.

3. COUNTY reserves the right to permit access to the site by other contractors if necessary. CONTRACTOR shall cooperate and coordinate with COUNTY as needed.

NN. Construction Safety

Neither COUNTY nor its employees, agents, Architect/Engineer or construction management firm shall be responsible for safety on the project site, including but not limited to, providing or assuring a safe place for the performance of construction, methods of construction employed by any Contractor, subcontractor, supplier or other entity, or their partners, officers, agents, employees or volunteers or access, visits, use work, travel or occupancy by any person.

1. General
  - a. CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. CONTRACTOR shall comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.
  - b. In an emergency affecting the safety of life or of the Work or of adjoining property, CONTRACTOR shall follow the instructions of COUNTY or Consulting Architect or Engineer and, in the absence of such instruction, shall act at its discretion to prevent such threatened loss or injury.
2. Protection of Persons
  - a. CONTRACTOR shall take all reasonable precautions for the safety of all employees on the Work and all other persons who may be affected thereby. CONTRACTOR shall designate a responsible member of its organization at the Project site whose duty shall be prevention of accidents.
  - b. Except as otherwise stated in the Contract documents, it is CONTRACTOR'S responsibility to obtain existing condition information COUNTY may have in its archived files pertaining to asbestos, lead and other hazardous materials prior to commencing with each approved PRICE PROPOSAL form / purchase order. CONTRACTOR shall use this information to inform its employees of any known hazards per OSHA 29 CFR 1926.1101 (k). CONTRACTOR shall also use such information to develop a scope of work to navigate around the work area without disturbing the known hazardous material. If COUNTY does not have the information readily available, it will dispatch its Environmental Consultant to the site to perform a survey limited to the scope of work. The information will be transmitted to CONTRACTOR upon receipt, for use in hazard communication and scope preparation by CONTRACTOR. If hazardous materials cannot be avoided, COUNTY will hire a licensed contractor to remove the hazardous material prior to commencement of work by CONTRACTOR. If CONTRACTOR encounters site material reasonably believed to be asbestos, lead, polychlorinated biphenyl (PCB), or other hazardous substances, CONTRACTOR shall immediately stop work in the area affected and give notice to COUNTY and any other appropriate entity of the condition. Work in the affected area shall not be resumed without written direction by COUNTY.

OO. Cleaning Up

1. CONTRACTOR shall, at all times, keep the work area in a neat, clean, and safe condition. Upon completion of any portion of the work, CONTRACTOR shall promptly remove all of its equipment, construction plant, temporary structures and surplus materials not to be used at or near the same location during later stages of work. Upon completion of the work and before final payment is made, CONTRACTOR shall, at its expense, satisfactorily dispose of all plant, buildings, rubbish, unused materials, and other equipment and materials belonging to it or used in the performance of the work, and CONTRACTOR shall leave the premises and work

site in a neat, clean, and safe condition. In the event of CONTRACTOR'S failure to comply with the above requirements may be accomplished by COUNTY at CONTRACTOR'S expense.

2. In the case of Public Works Off-Site Construction Reference to use of completed portions of the work, shall conform to Section 107 of the Uniform Standard Specifications for Public Works Construction, Off-Site Improvements, Clark County Area, Nevada, Third Edition, and revisions thereto.

PP. Fire Prevention

1. CONTRACTOR shall comply with all Federal, State, and local laws and regulations pertaining to burning, fire prevention, and control within or adjacent to the project. Necessary precautions to avoid and eliminate fire hazards shall be the responsibility of CONTRACTOR.
2. All tarpaulins used for any purpose during construction of any work shall be made of material resistant to fire, water, and weather and shall bear UL labels. Lighting of any fires on premises is strictly forbidden.
3. CONTRACTOR shall provide portable fire extinguishers compatible with the hazard of each work area and shall instruct its personnel in their location and use. Wherever welding and burning are conducted, inflammable materials shall be protected, and a fire watch shall be provided by CONTRACTOR to be present during the burning and welding operation to ensure that protective measures are taken and no fires result from such operation. The fire watch shall have fire extinguisher equipment readily available and must be knowledgeable regarding proper use.

QQ. Air Pollution

1. CONTRACTOR shall perform its work so as not to discharge into the atmosphere from any source, smoke, dust, or other air contaminants in violation of the laws, rules and regulations of all federal, state and local air and water pollution requirements.  
CONTRACTOR shall:
  - a. Comply with the provisions of Nevada Revised State 445: Air Quality Regulation;
  - b. Register with the Clark County Air Quality Management Air Pollution Board, any equipment requiring operating permits; and
  - c. Adhere to all Clark County Air Pollution Board regulations.

RR. Change Orders

Contractor shall comply with all provisions and conditions which are required by an approved change order between Owner and Contractor. In the event a change order adjusts the GMP Price and/or the Contract term, associated costs and fees as outlined in this Contract shall apply.

SS. Project Completion

Use of Completed Portions of Work

1. Whenever, as determined by COUNTY, any portion of work performed by CONTRACTOR is in a condition suitable for use, COUNTY may initiate a certificate of substantial completion for that portion and take possession of or use such portion.
2. Such use by COUNTY shall in no case be construed as constituting final acceptance and shall neither relieve CONTRACTOR of any of its responsibilities under the Contract, nor act as a waiver by COUNTY of any of the conditions thereof, provided that CONTRACTOR shall not be liable for the cost of repairs, rework or renewals which may be required due to ordinary wear and tear resulting from such use. However, if such use increases the cost, or delays the completion of remaining portions of work, CONTRACTOR shall be entitled to an equitable adjustment mutually agreed upon prior to COUNTY taking possession.

3. If, as a result of CONTRACTOR'S failure to comply with the provisions of the Contract, such use proves to be unsatisfactory to COUNTY, COUNTY shall have the right to continue such use until such portion of work can, without injury to COUNTY, be taken out of service for correction of defects, errors, omissions, or replacement of unsatisfactory materials or equipment, as necessary for such work to comply with Contract; provided that the period of such operation or use pending completion of appropriate remedial action shall not exceed 12 months, unless otherwise mutually agreed upon in writing between the parties.
4. CONTRACTOR shall not use any permanently installed equipment unless such use is approved by COUNTY in writing. Where CONTRACTOR'S written request is granted for the use of certain equipment, CONTRACTOR shall properly use and maintain, and upon completion of its use, and at its expense, recondition such equipment to the satisfaction of COUNTY.
5. If COUNTY furnished an operator for such equipment, such operator's services shall be performed under the complete direction and control of CONTRACTOR and shall be considered CONTRACTOR'S employee for all purposes other than the payment of such operator's wages, workers' compensation or other benefits paid directly or indirectly by COUNTY.
6. Use of completed portions of off-site improvements shall be done in accordance with Section 107 of the Uniform Standard Specifications for Public Works Construction, Off-Site Improvements, Clark County Area, Nevada, Third Edition, and revisions thereto.

TT. Record Drawings and Specifications

1. Progress Records: During construction, CONTRACTOR shall keep a marked-up, up-to-date set of drawings showing as-built conditions on the site as an accurate record of all deviations between work as shown and work as installed.
2. Final Records: When specified or required upon completion of work, CONTRACTOR shall furnish to COUNTY a complete set of marked-up as-builts with "RECORD" clearly printed on each sheet. COUNTY, at its expense, will furnish CONTRACTOR with drawings for mark-up by CONTRACTOR. CONTRACTOR shall accurately and neatly transfer all deviations from progress as-builts, to final as-builts.

UU. Testing, Inspections, and Final Acceptance

1. When CONTRACTOR considers that all work under the Contract is complete, CONTRACTOR shall inform COUNTY in writing. When the results of inspection and testing satisfy COUNTY that all work under the Contract is completed and in accordance with the requirements of this Contract, COUNTY shall initiate the Notice of Completion process.
2. The date of final acceptance of the project shall be the date upon which COUNTY accepts and issues a Notice of Completion for the project.
3. All warranties guarantees and other applicable requirements designated in the Contract documents shall commence on the date of final acceptance of the project by COUNTY as defined herein except that COUNTY, upon written request, may approve earlier commencement dates for system, equipment, or other specific items of work.

VV. Disputes

All claims, disputes or other controversy that may arise between COUNTY and Contractor relating to any provisions of this Contract, or its performance, which have not been waived by the making and acceptance of final payment or any progress payment, must be attempted to be resolved by the parties by informal negotiations prior to the initiation of mediation. In the event such claim, dispute or controversy cannot be resolved by informal negotiations within forty-five (45) calendar days after either party made a written request for such informal negotiations, the parties shall, pursuant to NRS 338.150, attempt to resolve the claim, dispute or controversy by non-binding mediation prior to initiating judicial

action. If the claim, dispute or controversy is not resolved by non-binding mediation, then the parties may proceed with judicial action in District Court. In no way is this Contract intended or to be interpreted to require arbitration.

In the event CONTRACTOR files a claim in District Court, pursuant to one or more provisions of NRS 338.640, and COUNTY prevails in the Court's decision, then CONTRACTOR shall pay COUNTY'S attorneys' fees. Further, CONTRACTOR acknowledges that NRS 338.640 is contained within Nevada's Prompt Pay Act and, thus, fee-shifting provisions apply only to actions involving ordinary progress payments, and not claims for additional compensation or additional days beyond this Contract.

COUNTY and CONTRACTOR, in any legal proceeding, including this mediation, an arbitration or Court action, shall bear their own fees and costs. This specifically extends to any pass-through claims asserted by or on behalf of subcontractor. COUNTY shall not be liable for fees or costs as an element of consequential damages.

WW. Notice of Non-Binding Mediation

After the expiration of the forty-five days for informal negotiations, as set in Section VV above; either COUNTY or CONTRACTOR may initiate mediation by providing written notice to the other party against whom a claim, dispute or controversy is being made by submitting the following:

1. A written demand by the party initiating the mediation that the claim, dispute, or other controversy be referred to a mediator;
2. The names, addresses and telephone numbers of the parties;
3. A reference to any Contract provisions from which the claim, dispute or controversy arises;
4. A complete description and a specific statement of the claim(s), dispute(s) or controversy(ies) and a showing of entitlement to relief;
5. The relief or remedy sought, and the amount of money claimed;
6. If CONTRACTOR is the initiating party, a copy of CONTRACTOR'S documents generated in preparation or determination of prices included in the CONTRACTOR'S proposal as required by NRS 338.140(1)(d);
7. If CONTRACTOR is the initiating party and if the claim, dispute or controversy is made by a subcontractor, a written statement by CONTRACTOR that it agrees with the merits and the amount of the claim;
8. If CONTRACTOR submits a total cost or modified cost claim, dispute or controversy then CONTRACTOR must submit documents showing: 1) that the nature of the particular losses make it impossible or highly impractical to determine the losses with a reasonable degree of accuracy; 2) that the bid was realistic; 3) that the actual costs are reasonable; 4) that CONTRACTOR was not responsible for the added expenses; and 5) that COUNTY, and not anyone else, is responsible for the additional cost; and
9. If CONTRACTOR is the initiating party, it must submit the written demand of mediation to COUNTY in the time period set forth in the claim's presentment statute of NRS 244.250.
10. If CONTRACTOR is the initiating party of the claim, dispute or controversy, CONTRACTOR shall certify in writing that the claim is made in good faith, that the supporting data is accurate and complete to the best of CONTRACTOR'S knowledge and belief, and that the amount requested accurately reflects the Contract adjustment for which CONTRACTOR believes COUNTY is liable.

XX. Selection of Mediator

The mediator shall be chosen by mutual agreement of the parties.

YY. Cost of The Mediation

The fees and expenses of the independent private mediator shall be shared equally by COUNTY and CONTRACTOR. COUNTY and CONTRACTOR shall each pay their own costs and expenses, including, but not limited to, expert and

attorney fees incurred in the mediation of any claim, dispute or controversy, including, but not limited to, their own costs of preparation of and presentation of all claims prior to and through the mediation period. Neither COUNTY nor CONTRACTOR shall be entitled to an award of interest.

ZZ. Location of The Mediation

The mediation shall take place at a location designated by COUNTY at a COUNTY-owned facility.

AAA. Mediator Agreement

The parties shall enter into an agreement with the mediator that will include, among other provisions, the mediator's fees and costs, the mediator's responsibilities, and the mediator's model standards of conduct. The parties agree to propose that the mediator enter into an agreement in substantial form as that attached hereto as **Exhibit J**, prior to serving in any capacity as a mediator.

BBB. Mediation Proceeding

1. The parties and the mediator shall agree on the date of the mediation and time of the mediation. Unless the parties and the mediators mutually agree otherwise, the mediation shall take place within ninety (90) days after execution of the mediator agreement.
2. Either party may be represented by an attorney. Representation is not required. Parties are expected to have present at the mediation an officer, partner, employee or other person authorized to make decisions regarding the resolution of the dispute, claim or controversy. CONTRACTOR acknowledges that COUNTY is a public body and any settlement agreed to by its authorized representatives is subject to approval by the Board of County Commissioners.
3. The mediation shall consist of one or more sessions totaling no more than sixteen (16) hours, unless otherwise mutually agreed to by the parties and the mediator. Unless the parties otherwise mutually agree, it shall be an irrebuttable presumption that efforts beyond sixteen (16) hours would be futile.
4. Prior to the mediation session, on a date mutually agreed upon by the mediator and the parties, as set forth in Section 7.7(a), above, each party shall provide the mediator with a written memoranda addressing the facts, issues, legal arguments and damages related to the claim, dispute or controversy. In addition to the written statement, the parties shall produce all relevant information reasonably required by the mediator to understand the issues and positions presented. Each party will provide the written statement and supporting documents to the mediator only. The parties will not exchange the written statement and supporting documents. The written statement shall be double spaced, no smaller than 12 characters per inch and not to exceed 30 (thirty) pages, unless mutually agreed to otherwise by the mediator and the parties. The party initiating the mediation shall provide the mediator with the information set in Section WW.
5. The mediation shall be confidential and, as a condition of the nonbinding mediation, the parties shall enter into a Confidentiality Agreement, attached hereto as **Exhibit K** prior to the commencement of the mediation proceeding.
6. The mediation session will be private. Persons other than the parties and their representatives may attend only with the permission of both parties and the consent of the mediator. Unless mutually agreed to by the parties, COUNTY and Contractor, along with its authorized representatives, shall be the only participants in the mediation. There shall be no stenographic record of the mediation process.
7. The parties agree to assert all claims, disputes and controversies known to the parties in their respective written statements submitted to the mediator.
8. The parties agree that opinions, recommendations, proposals, suggestions made or written, or views expressed, by the mediator will not be introduced, used or relied upon in any arbitral, judicial or other proceedings.

CCC. Termination of Mediation

The mediation shall be terminated:

1. by the execution and approval of a settlement agreement by the parties;
2. by declaration of the mediator that further efforts at the mediation are no longer worthwhile;
3. after the completion of the mediation session if the parties do not settle, by a written declaration of a party or parties to the effect that the mediation proceedings are terminated;
4. a party gives written notice of withdrawal; or
5. when there has been no communication between the mediator and a party or a party's representative for 14 days, at no fault of the mediator, following the conclusion of the mediation session.

DDD. Work in Progress

At all times while the informal negotiations or mediation action is pending, CONTRACTOR shall carry on with the work set forth in this Contract and maintain its progress schedule in accordance with the requirements of the Contract, unless COUNTY exercises its right to terminate, pursuant to Section IX – Suspension and Termination of this Contract, or otherwise mutually agreed upon in writing by the parties.

EEE. Section 105.17(C) of the Uniform Standard Specifications for Public Works Construction Off-Site Improvements Does Not Apply

Section 105.17(c) of the Uniform Standard Specifications for Public Works Construction Off-Site Improvements, Clark County Area, Nevada, current edition and all revisions through date of advertisement, does not apply to this Contract.

FFF. Use of Apprentices

CONTRACTOR represents that it and its subcontractors will comply with SB 207 (2019), NRS 338.01165 in regards to the hiring of apprentices from a valid Apprenticeship Program (recognized by the State Apprenticeship Council) for the applicable type of public work (as defined in NRS 338.010).

CONTRACTOR and/or Subcontractor engaged in a Vertical Construction who employs a worker pursuant to NRS 338.040 shall use one or more apprentices for at least 10 percent of total hours of labor in each apprenticed craft or type of work to be performed which more than three workers are employed on a public work.

CONTRACTOR and/or Subcontractor engaged in a Horizontal Construction who employs a worker pursuant to NRS 338.040 shall use one or more apprentices for at least 3 percent of total hours of labor in each apprenticed craft or type of work to be performed which more than three workers are employed on a public work.

GGG. Apprentice Forms and Waivers

CONTRACTOR must submit a completed Project Workforce Checklist form, **see Exhibit C of the Sample Contract**. All trade/craft shall be checked that will be applicable to the project.

2. CONTRACTOR must submit a completed and signed Project Workforce Checklist form, **see Exhibit D of the Sample Contract**, for each named (used) subcontractor, upon request from COUNTY. All trade/craft shall be checked that will be applicable to the project.
3. CONTRACTOR must submit a completed and signed Request for Waiver form, **see Exhibit E of the Sample Contract**, for CONTRACTOR and each named (used) subcontractor, upon request from COUNTY. All supporting documentation for waiver(s) must be submitted with the Request for Waiver form. If waivers are not needed, please indicate such on the Request for Waiver form, and submit as directed above.

A Request for Waiver (for cause) can be submitted if:

1. No Apprentices are available from an apprenticeship program with Clark County as recognized by the State Apprenticeship Council; or
2. A request for Apprentices was denied, or not acted upon with five (5) business days of submission; or
3. The project requires the performance of uniquely complex or hazardous work.

Failure to submit the Workforce/Apprentice utilization forms and supporting documentation described above, within the required time, may deem the be considered a breach of Contract.

Any or all of these forms will be required for any additional subcontractors added during the course of construction.

HHH. Liquidated Damages

1. In case of failure on the part of Contractor to complete the work within the time(s) specified in the Contract, or with such additional time(s) as may be granted by formal change order, or if Contractor fails to perform the work, or any separable part thereof, with such diligence as will insure its completion within the time(s) specified in the contract or any extensions thereof, Contractor shall pay to COUNTY, as liquidated damages, the sum of **\$5,000.00** for each calendar day of delay until the work is complete, together with any increased costs incurred by COUNTY in completing the work.

2. **COUNTY'S Recovery of Bidder's Preference Liquidated Damages**

If COUNTY determines that Contractor has failed to comply with a requirement certified in its Public Works Bidder's Preference Affidavit, COUNTY may seek to recover by civil action Liquidated Damages for material breach of the contract in the amount of one percent (1%) of the Contract price.

III. Assignment of Contractual Rights

It is agreed that Contractor will not assign, transfer, convey or otherwise dispose of the contract or its right, title or interest in or to the same, or any part thereof, without prior written consent of COUNTY and any sureties.

JJJ. Copeland Anti-Kick Back Act

Contractor shall comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874) as supplemented in the Department of Labor Regulations (29 CFR Part 3). This act provides that each Contractor or Subcontractor shall be prohibited from inducing by any means, any person employed in the construction, completion or repair of public work, to give up any part of the compensation to which it is otherwise entitled.

KKK. Subcontractor/Independent Contractor

- A. Contractor represents that it is fully experienced and properly qualified to perform the class of work provided for herein, and that it is properly licensed, equipped, organized and financed to perform such work. Contractor shall act as an independent Contractor and not as the agent of COUNTY in performing the Contract. Contractor shall maintain complete control over its employees and all of its Subcontractors. Nothing contained in this Contract or any subcontract awarded by Contractor shall create any contractual relationship between any such Subcontractor and COUNTY. Contractor shall perform all work in accordance with its own methods subject to compliance with the Contract.
- B. Any subcontract entered into by Contractor and its Subcontractor or Material Supplier shall not create any contractual relationship between COUNTY and Subcontractor or Material Supplier. It is Contractor's responsibility to ensure all subcontract agreements and material supply contracts comply with the terms and conditions set forth in this Contract and applicable Statutes. If Contractor submitted with its Bid a signed and notarized Affidavit, Contractor must include in each contract between Contractor and Subcontractor the apportionment of Bidder's Preference Liquidated Damages assessed (General Conditions Section 1,1.2(D)). Contractor shall not substitute a subcontractor for any portion of the Work which was previously indicated would be performed by Contractor unless such substitution meets the requirements of NRS Chapter 338.

IN WITNESS WHEREOF, the parties have caused this Contract to be executed the day and year first above written.

COUNTY:

CLARK COUNTY, NEVADA

By: \_\_\_\_\_  
JESSICA COLVIN  
Chief Financial Officer

\_\_\_\_\_  
DATE

CONTRACTOR:

SLETTEN CONSTRUCTION OF NEVADA, INC.

By: \_\_\_\_\_  
JOSH GUISTI  
Vice President

Digitally signed by Josh Guisti  
DN: c=US,  
e=jguisti@sletteninc.com,  
o=Sletten Construction,  
cn=Josh Guisti  
Date: 2023.10.30  
12:10:32-0700

\_\_\_\_\_  
DATE

APPROVED AS TO FORM:

STEVEN B. WOLFSON  
District Attorney

By: Jason Patchett  
Jason Patchett (Oct 30, 2023 09:55 PDT)  
\_\_\_\_\_  
JASON PATCHETT  
Deputy District Attorney

Oct 30, 2023  
\_\_\_\_\_  
DATE

CONTRACT ATTACHMENTS:

- Exhibit A – Scope of Work
- Exhibit B – Clark County Division 1, Technical Specifications & Reports – Project Manual Volume 1 and 2
- Exhibit C – Apprentice Project Workforce Checklist – Prime
- Exhibit D - Apprentice Project Workforce Checklist – Subcontractor
- Exhibit E – Request for Waiver
- Exhibit F – Insurance and Bonds
- Exhibit G – Workers Employed Report
- Exhibit H - Non-Appportioned Vehicle Report
- Exhibit I – Materials Purchased Report
- Exhibit J - Mediator Agreement
- Exhibit K – Confidentiality Agreement
- Exhibit L – Contract Close Out Form
- Exhibit M – Bid Set Drawings
- Exhibit N – Phasing Plan
- Exhibit O – Draft Construction Schedule
- Exhibit P – Draft Commissioning Plan
- Exhibit Q – TERP Fire Protection Report
- Exhibit R – Sletten GMP Proposal and Clarifications 10-18-2023
- Prevailing Wage Rates – Attached to Final Contract