

**PROFESSIONAL SERVICES CONTRACT FOR LOCATING AND MARKING
SUBSURFACE FACILITIES OWNED AND MAINTAINED BY PUBLIC WORKS**

THIS Contract, made and entered into this 21st day of December, 2023, between CLARK COUNTY, NEVADA, a political subdivision of the State of Nevada, hereinafter referred to as "COUNTY", and ONE CALL LOCATORS LTD. d/b/a ELM UTILITY SERVICES, a corporation authorized to do business under the laws of the State of Nevada, hereinafter referred to as "CONTRACTOR". The COUNTY and CONTRACTOR may herein be referred individually as "Party" or collectively as "Parties".

The initial addresses of the Parties, which one Party may change by giving notice to the respective other Party, are as follows:

COUNTY	CONTRACTOR
Denis Cederburg, Director Clark County Department of Public Works 500 South Grand Central Parkway, Suite 2066 Las Vegas, Nevada 89155 (702) 455-6020	ONE CALL LOCATORS LTD. d/b/a ELM UTILITY SERVICES 18 Sunrise Drive, Suite G70 Henderson, NV 89014 (702) 597-2250

W I T N E S S E T H

WHEREAS, the COUNTY owns and operates Subsurface Facilities (defined more fully below) in certain areas of Clark County, State of Nevada; and,

WHEREAS, the CONTRACTOR provides professional services, including but not limited to labor, equipment, tools, materials, training, and supervision necessary to locate and mark Subsurface Facilities; and,

WHEREAS, the COUNTY desires to obtain quality professional services in connection with the work hereinafter described; and,

WHEREAS, the CONTRACTOR desires to provide such services in exchange for the fees hereinafter specified.

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

ARTICLE I: DEFINITIONS

As used in this Contract, the following terms shall have the meanings as set out below:

"Director" means the Director of Public Works of the County of Clark and all persons designated by him, in a notice to the CONTRACTOR, to administer this Contract.

"Locate" or "locating" shall have the meaning ascribed to it in Nevada Administrative Code ("NAC") 455.065 or any amendment thereto. Additionally, "locate" means CONTRACTOR used

a minimum of two methods to confirm i.e. system maps and equipment to determine the Places of Delivery.

“Mark” or “marking” shall have the meaning ascribed to it in NAC 455.067 or any amendment thereto.

“Places of Delivery” means the geographical areas of the Subsurface Facilities.

“Subsurface Facilities” shall have the meaning ascribed to it in Nevada Revised Statute (“NRS”) 455.101 and any amendment thereto, including but not limited to streetlight conduits and pull boxes, traffic signal conduits and pull boxes, ITS Fiber conduits and pull boxes, and storm drain facilities, including storm drainpipes, manholes, boxes, and drop inlets owned and maintained by Clark County Public Works.

“System Maps” shall mean the COUNTY’s maps indicating the Places of Delivery.

ARTICLE II: SCOPE OF SERVICES

2.01 In General

The CONTRACTOR shall perform the Services specified in Section 2.02 hereof that the Director authorizes the CONTRACTOR in writing, to perform.

2.01.1 Contract Manager Assignment

The CONTRACTOR shall assign Harley Hartman, as the Contract Manager, who shall be responsible for all services to be performed under this Contract. No work may commence until CONTRACTOR has received a separate Notice to Proceed to commence work under this Contract. All of the services specified by this Contract shall be performed by the Contract Manager, or by the CONTRACTOR’s associates, employees and subcontractors under the personal supervision of the Contract Manager. Should the Contract Manager be unable to complete his responsibility for any reason, the CONTRACTOR shall notify the Director in writing, and within four (4) calendar days thereafter, of a replacement who has an equivalent or commensurate amount of experience performing the same type of services as required by the Contract. A replacement shall be assigned to the Contract within ten (10) calendar days. If the Director is not satisfied with the replacement, then the Director may terminate the Contract by giving five (5) days’ written notice to the CONTRACTOR.

2.01.2 Subcontractor Services

With respect to any subcontractor services performed in connection with performance of the terms and obligations imposed under these Contract provisions, the CONTRACTOR agrees as follows:

- A. To pay the subcontractor if and when the CONTRACTOR is paid for the subcontractor's portion of the work by the COUNTY. The CONTRACTOR shall provide to the COUNTY lien releases from its subcontractors.
- B. The subcontractor does not have any contractual rights with the COUNTY.
- C. The Director has the right in his discretion to approve every subcontractor prior to such subcontractor's performance of any portion of the Contract.
- D. The CONTRACTOR shall require that each subcontractor performing any portion of the Contract:
 - Is duly formed, in good standing, and authorized to do business in the State of Nevada;
 - Has obtained any and all licenses, certificates and permits that are required to be obtained by subcontractor by the NRS and the NAC, and by any other law, rule, regulation or ordinance applicable to subcontractor and to the performance of any part of the Contract by subcontractor;
 - Uses equipment compatible with and in compliance with the requirements of the Association for Operators for Subsurface Facilities;
 - Is duly licensed and authorized to do business in the COUNTY, and such business license is in full force and effect; and
 - To comply with all laws, rules, regulations, and ordinances, as such may be amended, supplemented or modified from time to time, that are applicable to subcontractor and any portion of the Contract performed by subcontractor.

2.02 Scope of Services

- A. Beginning on the date the Director notifies the CONTRACTOR to begin performance pursuant to a written Notice to Proceed; the CONTRACTOR shall proceed with commencing the Services as follows:

Locate and Mark Subsurface Facilities: For the Call Before You Dig Program, CONTRACTOR shall respond to all requests to locate and mark Subsurface Facilities owned and maintained by Clark County Public Works by accurately locating and properly marking all Subsurface Facilities in compliance of and within the response times required under Nevada law. CONTRACTOR shall use the System Maps provided by COUNTY for Places of Delivery. CONTRACTOR shall acknowledge and document the completion of the requests in an online ticket management program and maintain a record of this information that CONTRACTOR shall provide to the COUNTY on a weekly basis and retain for a minimum of six (6) years beginning at the time of the request to locate and mark the Subsurface Facilities.

i. No Subsurface Facilities Exist: If no Subsurface Facilities exist, CONTRACTOR shall properly mark where no Subsurface Facilities exist.

ii. Subsurface Facilities Exist, but CONTRACTOR Unable to Locate: Should CONTRACTOR not locate the Subsurface Facilities as indicated in the System Maps provided by COUNTY for Places of Delivery, CONTRACTOR shall contact the COUNTY as soon as practical to assist with the request.

iii. Subsurface Facilities Located by CONTRACTOR in a Different Area Than Indicated on System Maps: Should CONTRACTOR locate the Subsurface Facilities in an area other than what is indicated in the System Maps provided by COUNTY for Places of Delivery, CONTRACTOR shall fill out and submit a map correction form to the COUNTY for Places of Delivery.

iv. Labor and Equipment: CONTRACTOR shall provide all labor and equipment necessary to locate and mark all Subsurface Facilities, including but not limited to paint, chalk, marking flags, whiskers, or other material required under Nevada law or the Director. CONTRACTOR shall use equipment that is compatible with and in compliance with the requirements of the Association for Operators for Subsurface Facilities. CONTRACTOR shall provide and document all necessary training and instruction to CONTRACTOR's personnel. CONTRACTOR shall provide 24-hour labor and equipment coverage to ensure response times are met as required by Nevada law.

1. Deliverable: Respond to all requests to accurately locate and properly mark Subsurface Facilities in compliance with and within the time frames required by Nevada law.
2. Deliverable: Report weekly to COUNTY the requests made and outcome by CONTRACTOR; fill out and submit map correction forms to the COUNTY if CONTRACTOR locates or does not locate Subsurface Facilities in an area other than what is indicated in the System Maps provided by COUNTY for Places of Delivery.

B. Audits and Verifications: At least once a quarter or at the sole discretion of the Director, CONTRACTOR consents to the COUNTY conducting a field audit on CONTRACTOR's personnel. The COUNTY may provide CONTRACTOR with a copy of the results of any field audit. If during an audit, the COUNTY determines that CONTRACTOR failed to accurately locate and properly mark Subsurface Facilities, the COUNTY may require CONTRACTOR to dispatch additional personnel and/or forfeit the fee for the particular request. The COUNTY reserves the right to locate and mark Subsurface Facilities whenever, and including if and when CONTRACTOR fails to accurately locate and properly mark the Subsurface Facilities.

2.03 Additional Services

In the event that the number of requests received by the County through the Call Before You Dig Program decreases for longer than a two-month period or at any other time, the Director of Public Works may, but is not obligated to approve CONTRACTOR to perform and provide GPS mapping to accurately locate the County's Subsurface Facilities for the County to use and update the System Maps and Places of Delivery. If the number of requests received by the County through the Call Before You Dig Program increases after the Director of Public authorizes CONTRACTOR to perform the additional services in this section, CONTRACTOR understands and agrees that the services set forth in section 2.02 take precedence.

2.04 Coordination

In association with the Services and upon request of the Director, the CONTRACTOR shall attend periodic meetings with City, COUNTY, and State and federal officials designated by the Director.

2.05 Contractor's Responsibility for Accuracy and Timeliness

CONTRACTOR is responsible for the accuracy and timeliness of locating, marking, and documenting Subsurface Facilities under this Contract.

2.06 No Guarantee

The County makes no guarantee as to the number of requests received by the County through the Call Before You Dig Program for CONTRACTOR to locate and mark under this Contract. As the number of requests may fluctuate, CONTRACTOR understands and agrees that the County cannot guarantee any amount of requests received by the County through the Call Before You Dig Program. Should the number of requests received decrease for longer than a two-month period, CONTRACTOR shall notify the County at which point the Director of Public Works may, but is not obligated to, authorize in writing the additional services outlined in 2.03.

ARTICLE III: DUTIES OF THE COUNTY

3.01 Other Duties

- A. Provide access to the CONTRACTOR for all data and allow the CONTRACTOR to make copies of documents in the possession and control of the COUNTY Public Works Department, or available to the COUNTY Public Works Department, which are requested by the CONTRACTOR to perform the services under this Contract.
- B. Perform and provide to the CONTRACTOR, evaluations on the CONTRACTOR's performance of the work specified herein.

ARTICLE IV: TIME OF PERFORMANCE

4.01 Time of Performance

Subject to Section 4.02 hereof, the CONTRACTOR shall complete the following specific tasks, and all the work preceding such tasks on or before the date set out below:

<u>TASK</u>	<u>DESCRIPTION</u>	<u>COMPLETION TIME</u>
2.02 A	Locate and Mark Subsurface Facilities	Upon written notice by Director to proceed, respond to requests within the time frames required by Nevada law.

2.02 B	Audits and Verifications	Quarterly or at the sole discretion of the Director.
2.03	GPS Mapping	As authorized in writing by Director to proceed.

Except as provided above, the CONTRACTOR shall complete all other services and authorized additional services by the end of December 31, 2024, unless the Parties renew this Contract or the Board of County Commissioners amends such date in writing.

4.02 Time Extensions

Upon written request of the CONTRACTOR, the Director may grant time extensions to the extent of any delays caused by the COUNTY or other agencies with whom the work must be coordinated and over whom the CONTRACTOR has no control, but only to the extent that the exercise of due diligence and care, on the part of the CONTRACTOR, within the scope of its work under this Contract could not have avoided such delays and to the extent of any delays caused by force majeure, as that term is defined in Section 9.12 hereof.

ARTICLE V: PAYMENT FOR SERVICES

5.01 Maximum Amount Payable

The maximum amount payable by the COUNTY to the CONTRACTOR shall be a sum of money equal to the services fees, if, as, and when approved by the Director, and provided, however, that under no circumstances may the total amount payable to the CONTRACTOR under this Contract or in connection with the subject matter of this Contract, exceed the sum of Three Million Five Hundred Thousand and 00/100 Dollars (\$3,500,000) for Services fees, unless such sum is increased by the Clark County Board of Commissioners, but only to the extent such total sum is increased.

The CONTRACTOR is not authorized to perform any work outside the Scope of Services. Compensation will be only for work completed as authorized by the Scope of Services. Any changes to the Scope of Services must be approved by the Director in writing prior to the commencement of work as a supplement to this Contract. No additional compensation shall be paid to the CONTRACTOR for any additional work outside scope of services without the prior written authorization of the Director.

5.02 Services Fees

Compensation for the services provided herein will be made on the basis of CONTRACTOR's hourly rates set forth in Exhibit "A". The CONTRACTOR shall provide total hours worked per technician.

The Service fees shall not be paid to the CONTRACTOR unless the Director approves the purpose and the amount of such fees in writing.

In no event may the fees exceed the following Services fees shown below in purposes or amounts:

<u>TASK</u>	<u>MAXIMUM AMOUNTS</u>
Services 2.02 and 2.03.....	\$3,500,000
Grand Total Services	\$3,500,000

5.03 Method of Payment for Service Fees

The CONTRACTOR will be paid on the basis of weekly invoice, submitted by the CONTRACTOR and approved by the Director. The CONTRACTOR shall invoice on a weekly basis regardless of the amount of work performed in the preceding week. The invoice shall include a summary of work completed by the CONTRACTOR during the preceding week. Additionally, the CONTRACTOR shall furnish with each invoice a summary of work performed during the invoice period. Within thirty (30) days of receipt of an invoice and pay within 30 days of receipt of invoice, the Director shall approve, or reject with cause, the invoice.

Fees shall paid by the COUNTY within thirty (30) days after receipt of an invoice submitted by the CONTRACTOR and approved by the Director unless the Director notifies the CONTRACTOR within such period of time that a payment or a portion thereof for the services rendered is in dispute. The COUNTY agrees that it will not unreasonably delay or withhold payment or approval of any invoice submitted by the CONTRACTOR.

The Parties hereby agree that no penalty will be imposed upon the COUNTY for failure to pay the CONTRACTOR in a timely manner nor will the COUNTY require a discount for timely payment in accordance with the terms set forth in this Contract.

ARTICLE VI: APPROVALS

6.01 Approvals

An approval by the Director, or any other instrumentality of the COUNTY, of any part of the CONTRACTOR's performance shall not be construed to waive compliance with this Contract or to establish a standard of performance other than that established by law unless such approval is in writing and expressly refers to:

- A. Specific items and the characteristics of such items subject to such a waiver; and,
- B. This Article VI, and in such event, such a waiver shall only be effective as to the specific items and the characteristics thereof identified in the writing.

The COUNTY's approval herein shall not relieve the CONTRACTOR of its responsibility to correct errors in locating, marking, or documenting the Subsurface Facilities by the

CONTRACTOR under this Contract, and no payment to the CONTRACTOR will be made by the COUNTY for correction of such errors.

ARTICLE VII: TERM AND TERMINATION

7.01 In General

This Contract shall be in force and effect from and after the day on which the Director gives notice to the CONTRACTOR to begin work under this Contract under Section 2.02 above. This Contract shall remain in effect until one (1) year from the date listed in Article 4.01. This section shall not be construed to relieve either Party of its obligations to perform under this Contract while the Contract is in effect. Termination of this Contract shall not release either Party from any of its continuing obligations hereunder. This section shall not be construed to change any disputes arising out of this Contract or in connection with the subject matter hereof, nor shall this section be construed to change the date or the time on which a cause of action arising out of this Contract, or the subject matter hereof, would otherwise accrue under the statutes of limitations or doctrines of law.

7.02 Termination by the COUNTY or CONTRACTOR

Either the Director or CONTRACTOR may terminate this Contract at any time by giving thirty (30) days notice in writing to the other party. Upon receipt of such notice, the CONTRACTOR shall, unless the notice directs otherwise, immediately discontinue all services in connection with this Contract and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Contract. As soon as practicable after receipt of notice of termination, the CONTRACTOR shall submit a statement showing in detail the services performed under this Contract to the date of termination. The COUNTY shall then promptly pay the CONTRACTOR that portion of the prescribed fee which the services actually performed under this Contract bear to the total services called for under this Contract, less such payment on account of the fee as had been previously made.

ARTICLE VIII: INSURANCE

8.01 In General

The CONTRACTOR shall obtain and maintain, for the duration of this Contract, insurance against claims for injuries to persons or damages to property or other losses which may arise from or in connection with the CONTRACTOR's negligence or fault in the performance of the work hereunder by the CONTRACTOR, the CONTRACTOR's agents, representatives, employees, or subcontractors of any tier.

8.02 Insurance Coverages

The CONTRACTOR will provide the COUNTY with certificates of insurance for coverage as listed below and endorsements establishing coverage required by this Contract within

ten (10) calendar days after approval of this Contract by the Clark County Board of Commissioners. The certificate of endorsement for each insurance policy is to be signed by a person authorized by that insurer and licensed by the State of Nevada and shall include the Contract name on the certificate.

All deductibles and self-insured retention shall be fully disclosed in the certificate of insurance. No deductible or self-insured retention may exceed Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) without written approval of the COUNTY. If aggregate limits are imposed on bodily injury and property damage and professional liability coverage, the amount of such a limit must not be less than twice the amount of the limits required herein. All aggregates must be fully disclosed, and the amount must be entered on the required certificate of insurance. Any notice given to the CONTRACTOR with respect to the exhaustion of limits of insurance shall also be sent to the COUNTY. Each insurance Contractor's rating, as shown in the latest "Best's Key Rating Guide" shall be fully disclosed and entered on the required certificate of insurance. The adequacy of the insurance supplied by the CONTRACTOR, including the rating and financial health of each insurance Contractor providing coverages, is subject to approval by the COUNTY.

The insurance coverages are in the following amounts:

A. The CONTRACTOR will maintain general liability coverage at limits of no less than One Million and 00/100 Dollars (\$1,000,000.00) specified combined single limit per occurrence for bodily injury (including death), personal injury and property damages. Coverage shall be on an "occurrence" basis only and not on a "claims made" basis; and the coverage must be provided on ISO commercial liability or on ISO broad form comprehensive general liability forms with no exception to the coverage provided in such forms. The policies must include, but not be limited to, coverage for: bodily injury, personal injury, broad form property damages, premises operations, severability of interest, products and completed operations, contractual and independent contractors. Policies must contain a primary and non-contributory clause and must contain a waiver of subrogation endorsement. The COUNTY, its officers, its employees, and its volunteers must be expressly covered as "additional insureds."

B. Maintain automobile coverage at limits of no less than One Million and 00/100 Dollars (\$1,000,000.00) combined single limit "per accident" for bodily injury and property damage for all owned automobiles, non-owned automobiles, hired automobiles, or any automobile. The COUNTY, its officers, its employees, and its designated volunteers must be expressly covered as "additional insureds."

C. Maintain professional liability insurance at limits of no less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence and to insure against claims or losses arising out of the services provided by the CONTRACTOR, the CONTRACTOR's agents, representatives or employees pursuant to the CONTRACTOR's contract with the COUNTY. "Claims made" insurance coverage will continue for a period of three (3) years beyond the term of this

Contract. Any retroactive date must coincide with or predate the date of this Contract and may not be advanced without the COUNTY's consent. The CONTRACTOR's professional liability insurance must provide coverage for the CONTRACTOR's subcontractor if the subcontractor does not maintain professional liability insurance in the same amounts and manner as required for the CONTRACTOR.

8.03 Additional Coverage

The CONTRACTOR's insurance shall be primary as respects to the COUNTY, its officers, its employees, and its volunteers. Any other coverage available to the COUNTY, its officers, its employees, and its volunteers shall be in excess over the insurance required of the CONTRACTOR. The insurance requirements specified herein do not relieve the CONTRACTOR of his responsibility or limit the amount of the CONTRACTOR's liability to the COUNTY or other persons, and the CONTRACTOR is encouraged to purchase such additional insurance as the CONTRACTOR deems necessary.

8.04 Notice of Cancellation

The insurance certificates supplied by the CONTRACTOR must provide for a thirty (30) day notice to the COUNTY before implementation of a proposal to cancel required insurance coverage. This notice requirement does not waive the insurance requirements contained herein. In addition, the CONTRACTOR shall notify the COUNTY within thirty (30) days of any reduction in coverage or limits.

8.05 Special Conditions

A. CONTRACTOR agrees, as a condition precedent to the performance of any work under this Contract and as a precondition to any obligation of COUNTY to make any payment under this Contract, to provide COUNTY with a certificate issued by the Employer's Insurance Contractor of Nevada in accordance with NRS Section 616B.627. Prior to the expiration of such coverage, CONTRACTOR shall provide COUNTY with proof of continued coverage as a condition precedent to the continuation of work and payments under this Contract.

B. CONTRACTOR agrees to maintain coverage for industrial insurance pursuant to the terms of NRS Chapters 616A-D throughout the term of this Contract. If CONTRACTOR does not maintain such coverage, or fails to provide proof of continued coverage, CONTRACTOR agrees that COUNTY may withhold payment, order the CONTRACTOR to stop work, suspend the Contract or terminate the Contract.

8.06 COUNTY's Remedies

If the CONTRACTOR fails to maintain any of the insurance coverages required under this Contract, the COUNTY will have the option to:

- A. Terminate the Contract;
- B. Declare the CONTRACTOR in breach of Contract;
- C. Purchase replacement insurance; or
- D. Pay the premiums due on existing policies to maintain the required coverage.

The CONTRACTOR is responsible for any costs incurred by the COUNTY to maintain such insurance, and the COUNTY may collect the same from the CONTRACTOR or deduct the amount of costs incurred from any sums due the CONTRACTOR under this Contract.

ARTICLE IX: MISCELLANEOUS PROVISIONS

9.01 Indemnification

Professional Liability:

CONTRACTOR agrees to indemnify and hold harmless COUNTY and all the officers, employees and agents of the COUNTY, and each of them, from and against any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees and costs, to the extent such liabilities, damages, losses, claims, actions or proceedings are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the CONTRACTOR, CONTRACTOR's employees and/or agents, in the performance of this Contract. If the CONTRACTOR is adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees and costs to be paid to the COUNTY, as reimbursement for the attorney's fees and costs incurred by the COUNTY in defending the action, by the CONTRACTOR in an amount which is proportionate to the liability of the CONTRACTOR.

CONTRACTOR further agrees to defend, indemnify and hold harmless the COUNTY and all the officers, employees and agents of the COUNTY, and each of them, from and against any and all liabilities, damages, losses, claims, actions or proceedings caused by the negligence, errors, omissions, recklessness or intentional misconduct of the CONTRACTOR, and CONTRACTOR's employees and/or agents, in the performance of this Contract when said liabilities, negligence, errors, omissions, recklessness or intentional misconduct are not based upon or arising out of the professional services performed under this Contract.

CONTRACTOR will not be required to defend, indemnify or hold harmless the public body or the employees, officers or agents of the COUNTY from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers or agents of the COUNTY.

General and Automobile Liability:

As to acts or omissions which do not arise directly out of the performance of the professional services, including but not limited to those acts or omissions normally covered by general and automobile liability insurance, CONTRACTOR agrees to indemnify, defend (at COUNTY's option), and hold harmless COUNTY, its officers, employees from and against any and all losses, damages, fines, liability, claims, demands, causes of action, costs, expenses, judgments, including but not limited to reasonable costs of investigation, reasonable attorneys fees and expenses, reasonable consultants' fees and expenses, reasonable expert witnesses' fees and expenses and all court or arbitration or other alternative dispute resolution costs.

Furthermore, this entire Section 9.01 survives any termination or completion of this Contract.

9.02 Non-Discrimination

CONTRACTOR acknowledges that the 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 Contractor due to reasons of race, color, religion, sex, sexual orientation, gender identity or gender expression, age, disability, national origin, or any other protected status, the COUNTY may declare the CONTRACTOR in breach of the Contract, terminate the Contract, and designate the CONTRACTOR as non-responsible.

9.03 Contractor's Responsibility for Services and Materials

Until the COUNTY's acceptance of the services performed by the CONTRACTOR, the CONTRACTOR shall have the charge and care of the services and of the materials to be used herein and shall bear the risk of injury, loss and/or damages to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the nonexecution of the services. CONTRACTOR shall rebuild, repair, restore and make good all injuries, losses and/or damages to any portion of the services to be performed or the materials occasioned by any cause before its completion and acceptance and shall bear the expense thereof.

9.04 Independent Contractor

The relationship of the CONTRACTOR to the COUNTY shall be that of an independent contractor.

9.05 Business Structure and Assignments

The CONTRACTOR shall not assign this Contract or dispose of all or substantially all of its assets without the written consent of the Clark County Board of Commissioners.

9.06 Subcontractors

The CONTRACTOR shall not subcontract any part of its performance under this Contract without the written consent of the Director. Subcontractor shall carry insurance coverage equivalent to the CONTRACTOR.

9.07 Parties and Interests

This Contract shall not bestow any rights upon any third Party, but rather shall bind and benefit the COUNTY and the CONTRACTOR only.

9.08 Non-waiver

Failure of either Party hereto to insist on the strict performance of any of the agreements herein or to exercise any rights or remedies accruing hereunder upon the fault or failure of performance, shall not be considered a waiver of the right to insist upon and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder, or to exercise any right or remedy occurring as a result of any future default or failure of performance.

9.09 Applicable Laws

This Contract is subject to all the laws of the State of Nevada, the ordinances of the County of Clark, Nevada, the laws of the federal government of the United States of America, and all of the rules and regulations of any regulatory body or officer having jurisdiction.

9.10 Notices

All notices required or permitted hereunder shall be in writing and shall be deemed delivered three (3) days after deposit in a United States Postal Service Post Office receptacle with proper postage affixed (certified mail, return receipt requested) to the respective other Party at the address prescribed in the preamble to this Contract.

9.11 Property: Copyrights

CONTRACTOR shall furnish to the COUNTY all field notes, reports, data, and electronic or magnetic media, and original tracings of all drawings and plans, maps, photographs, and other materials (including, if requested by the Director, design computations, design sketches and review drawings) prepared pursuant to this Contract (hereinafter collectively referred to as "Documents"). The originals of such Documents shall be and remain the property of the COUNTY.

All of such Documents shall be deemed to be "works made for hire" prepared for the COUNTY. The ownership of all copyrights and all rights embodied in the copyrights in or to such Documents shall rest in the COUNTY when any such is subject to copyright. The CONTRACTOR agrees that it, nor any of its employees, shall have any right to

copyright any of such Documents. The CONTRACTOR further agrees that neither it nor any of its employees shall exercise any of the rights embodied in the copyrights in or to such Documents, unless authorized to do so by the Clark County Board of Commissioners. The CONTRACTOR shall place a conspicuous notation upon each such Document which indicates that the copyright thereto is owned by the COUNTY.

Should it be finally determined, by a court or other tribunal of competent jurisdiction, that any of such Documents is not a "works made for hire," it is agreed that the provisions of this section shall be termed an assignment, sale, and transfer of the copyright in or to such Document to the COUNTY for the longest term allowed by law. Notwithstanding the foregoing, the CONTRACTOR may retain copies of such Documents and such copies shall remain the property of the CONTRACTOR. The CONTRACTOR shall have the right to use such copies as it may desire, but the CONTRACTOR may not sell, license, or otherwise market such Documents.

Documents, including drawings and specifications prepared by CONTRACTOR pursuant to this Contract, are not intended or represented to be suitable for reuse by COUNTY or others on extensions of the services provided for the Contract or any other Contract. Any use of completed Documents for other Contracts and/or any use of uncompleted Documents without specific written authorization from CONTRACTOR will be at the COUNTY's sole risk and without liability or legal exposure to CONTRACTOR.

9.12 Force Majeure

In the event either Party is rendered unable, wholly or in part by force majeure to carry out any of its obligations under this Contract, it is agreed that on such Party's giving notice of the particulars of such force majeure in writing to the other Party as soon as possible after the occurrence of the cause relied upon, then the obligations of the Party giving such notice, to the extent it is affected by force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inabilities so caused as to the extent provided, but for no longer period. Such cause shall, as far as possible, be remedied with all reasonable dispatch. In such an event, the CONTRACTOR shall provide an updated schedule satisfactory to the COUNTY for the completion of the remaining work called for under this Contract.

The term "force majeure" as used herein, shall include acts of God, acts of the public enemy, war, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, tornadoes, hurricanes, and restraints of government and people, explosions, breakage and not within the control of the Party claiming such inability, which by the exercise of due diligence and care such Party could not have avoided. The term "force majeure" as used herein, does not include strikes, lockouts, work slowdowns, and other labor disturbances.

9.13 Inspections and Audits

The Director shall have the right to perform, or cause to be performed, audits of the books and records of the CONTRACTOR and inspections of all places where work is undertaken in connection with this Contract provided that the CONTRACTOR shall not be required to keep such books and records longer than three (3) years after the termination of this Contract.

9.14 No Gratuities or Gifts

The CONTRACTOR, or agent/representative of the CONTRACTOR, shall not offer or give any gratuities (in the form of entertainment, meals, gifts, or otherwise) to any officer or employee of the 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.

9.15 Entire Agreement

This Contract contains all of the agreements of the Parties.

9.16 Counterparts

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original Agreement and each of which shall constitute one and the same Agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature (including portable document format) by either of the Parties and the receiving Party may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received.

IN WITNESS WHEREOF, the Parties have executed this Professional Services Contract as of the date herein above set forth.

CLARK COUNTY, NEVADA

ONE CALL LOCATORS LTD. d/b/a
ELM UTILITY SERVICES



Jessica Colvin
Chief Financial Officer



Harley Hartman
Vice President

APPROVED AS TO FORM:



Ashley A. Balducci
Deputy District Attorney

EXHIBIT “A”

Services Fees

Contractor shall charge for services rendered hereunder in the following manner:

Pricing:

Code	Description	Price
H	Hourly Locate Rate, per Technician	\$77.25
OT	Overtime Hourly Locate Rate	\$114.03

DISCLOSURE OF OWNERSHIP/PRINCIPALS

Business Entity Type (Please select one)						
☐ Sole Proprietorship	☐ Partnership	☐ Limited Liability Company	☒ Corporation	☐ Trust	☐ Non-Profit Organization	☐ Other
Business Designation Group (Please select all that apply)						
☐ MBE	☐ WBE	☐ SBE	☐ PBE	☐ VET	☐ DVET	☐ ESB
Minority Business Enterprise	Women-Owned Business Enterprise	Small Business Enterprise	Physically Challenged Business Enterprise	Veteran Owned Business	Disabled Veteran Owned Business	Emerging Small Business
Number of Clark County Nevada Residents Employed:				26		
Corporate/Business Entity Name: One Call Locutors, LTD						
(Include d.b.a., if applicable) ELM Locating & Utility Services						
Street Address: 60 State Street, Suite 201			Website: elmllc.com			
City, State and Zip Code: Peoria, IL 61602			POC Name: Harley Hartman Email: harley.hartman@elmutility.com			
Telephone No: 801-918-9633			Fax No:			
Nevada Local Street Address: 18 Sunrise Dr, Suite G70			Website: elmllc.com			
(If different from above)						
City, State and Zip Code: Henderson, NV 89014			Local Fax No:			
Local Telephone No: 406-224-0343			Local POC Name: Austin Benedict Email: austin.benedict@elmutility.com			

All entities, with the exception of publicly-traded and non-profit organizations, must list the names of individuals holding more than five percent (5%) ownership or financial interest in the business entity appearing before the Board.

Publicly-traded entities and non-profit organizations shall list all Corporate Officers and Directors in lieu of disclosing the names of individuals with ownership or financial interest. The disclosure requirement, as applied to land-use applications, extends to the applicant and the landowner(s).

Entities include all business associations organized under or governed by Title 7 of the Nevada Revised Statutes, including but not limited to private corporations, close corporations, foreign corporations, limited liability companies, partnerships, limited partnerships, and professional corporations.

Full Name	Title	% Owned (Not required for Publicly Traded Corporations/Non-profit organizations)
Lee C. Graves	Chairman/Founder	100%

This section is not required for publicly-traded corporations. Are you a publicly-traded corporation? ☐ Yes ☒ No

- Are any individual members, partners, owners or principals, involved in the business entity, a Clark County, Department of Aviation, Clark County Detention Center or Clark County Water Reclamation District full-time employee(s), or appointed/elected official(s)?
☐ Yes ☒ No (If yes, please note that County employee(s), or appointed/elected official(s) may not perform any work on professional service contracts, or other contracts, which are not subject to competitive bid.)
- Do any individual members, partners, owners or principals have a spouse, registered domestic partner, child, parent, in-law or brother/sister, half-brother/half-sister, grandchild, grandparent, related to a Clark County, Department of Aviation, Clark County Detention Center or Clark County Water Reclamation District full-time employee(s), or appointed/elected official(s)?
☐ Yes ☒ No (If yes, please complete the Disclosure of Relationship form on Page 2. If no, please print N/A on Page 2.)

I certify under penalty of perjury, that all of the information provided herein is current, complete, and accurate. I also understand that the Board will not take action on land-use approvals, contract approvals, land sales, leases or exchanges without the completed disclosure form.


Signature

Timothy P Nester
Print Name

CFO
Title

December 20, 2023
Date

DISCLOSURE OF RELATIONSHIP

List any disclosures below:
(Mark N/A, if not applicable.)

NAME OF BUSINESS OWNER/PRINCIPAL	NAME OF COUNTY* EMPLOYEE/OFFICIAL AND JOB TITLE	RELATIONSHIP TO COUNTY* EMPLOYEE/OFFICIAL	COUNTY* EMPLOYEE'S/OFFICIAL'S DEPARTMENT
N/A	N/A	N/A	N/A

* County employee means Clark County, Department of Aviation, Clark County Detention Center or Clark County Water Reclamation District.

"Consanguinity" is a relationship by blood. "Affinity" is a relationship by marriage.

"To the second degree of consanguinity" applies to the candidate's first and second degree of blood relatives as follows:

- Spouse – Registered Domestic Partners – Children – Parents – In-laws (first degree)
- Brothers/Sisters – Half-Brothers/Half-Sisters – Grandchildren – Grandparents – In-laws (second degree)

For County Use Only:

If any Disclosure of Relationship is noted above, please complete the following:

- ☐ Yes ☐ No Is the County employee(s) noted above involved in the contracting/selection process for this particular agenda item?
- ☐ Yes ☐ No Is the County employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:

Signature

Print Name
Authorized Department Representative