



STAFF REPORT

Report To: Board of Supervisors

Meeting Date: April 20, 2017

Staff Contact: Laura Rader and Darren Schulz

Agenda Title: For Possible Action: To determine that Peek Brothers Construction, Inc. is the lowest responsive bidder pursuant to N.R.S Chapter 338 and to award Contract No. 1617-119 N. Nevada St. & N. Division St. Sewer & Water Main Replacement Project to Peek Brothers Construction, Inc. for a bid amount of \$1,998,136.00, plus a contingency amount of \$199,813.00, for a total not to exceed amount of \$2,197,949.00 to be funded from the Sewer Replacement/Rehabilitation Account as provided in fiscal year 16/17. (Laura Rader; LRader@carson.org and Darren Schulz; DSchulz@carson.org)

Staff Summary: Carson City received sealed bids for all labor, material, tools, and equipment necessary for the N. Nevada St. & N. Division St. Sewer & Water Main Replacement Project. The project consists of replacing existing sewer mains along Nevada between Fleischmann and Winnie, along Division between Long and Winnie, and the adjoining streets of Adeline, Bath and Meyer. The project also includes relocating water mains to facilitate sewer alignment as well as asphalt patching, roadway reconstruction, slurry sealing, and concrete flatwork in locations affected by the replacement of the sewer and relocation of water mains.

Agenda Action: Formal Action/Motion

Time Requested: 5 minutes

Proposed Motion

I move to determine that Peek Brothers Construction, Inc. is the lowest responsive bidder pursuant to N.R.S Chapter 338 and to award Contract No. 1617-119 N. Nevada St. & N. Division St. Sewer & Water Main Replacement Project to Peek Brothers Construction, Inc. for a bid amount of \$1,998,136.00, plus a contingency amount of \$199,813.00, for a total not to exceed amount of \$2,197,949.00 to be funded from the Sewer Replacement/Rehabilitation Account as provided in fiscal year 16/17.

Board's Strategic Goal

Sustainable Infrastructure

Previous Action

n/a

Background/Issues & Analysis

NOTICE TO CONTRACTORS was published in the Nevada Appeal on March 7, 2017. The bids were opened at approximately 11:10am on March 28, 2017 at 201 North Carson Street, Carson City, NV 89701. Present during the bids were John Safrett; Peek Brothers Construction, Dee Westmoreland: MKD Construction, Darcy Carpenter, Sierra Nevada Construction, Kate Allen, Rick Cooley & Darren Anderson; Carson City Public Works, Alana Mills; Carson City Finance and Laura Rader; Carson City Purchasing and Contracts.

Bids were received from the following bidders:

Name of Bidder	Total Bid:
Peek Brothers Construction	\$ 1,998,136.00

Sierra Nevada Construction

\$ 2,364,887.00

MKD Construction

\$ 2,479,265.00

Staff recommends award to Peek Brothers Construction as the lowest responsive and responsible bidder.

Applicable Statute, Code, Policy, Rule or Regulation

NRS 338

Financial Information

Is there a fiscal impact? Yes No

If yes, account name/number: Sewer Replacement/Rehabilitation / 510-3205-434.70-40

Is it currently budgeted? Yes No

Explanation of Fiscal Impact: If approved the Account will be reduced by an amount not to exceed \$2,197,949.00.

Alternatives

Not award contract and provide other direction.

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)

Bid Tabulation Report from Carson City Purchasing & Contracts
775-283-7137

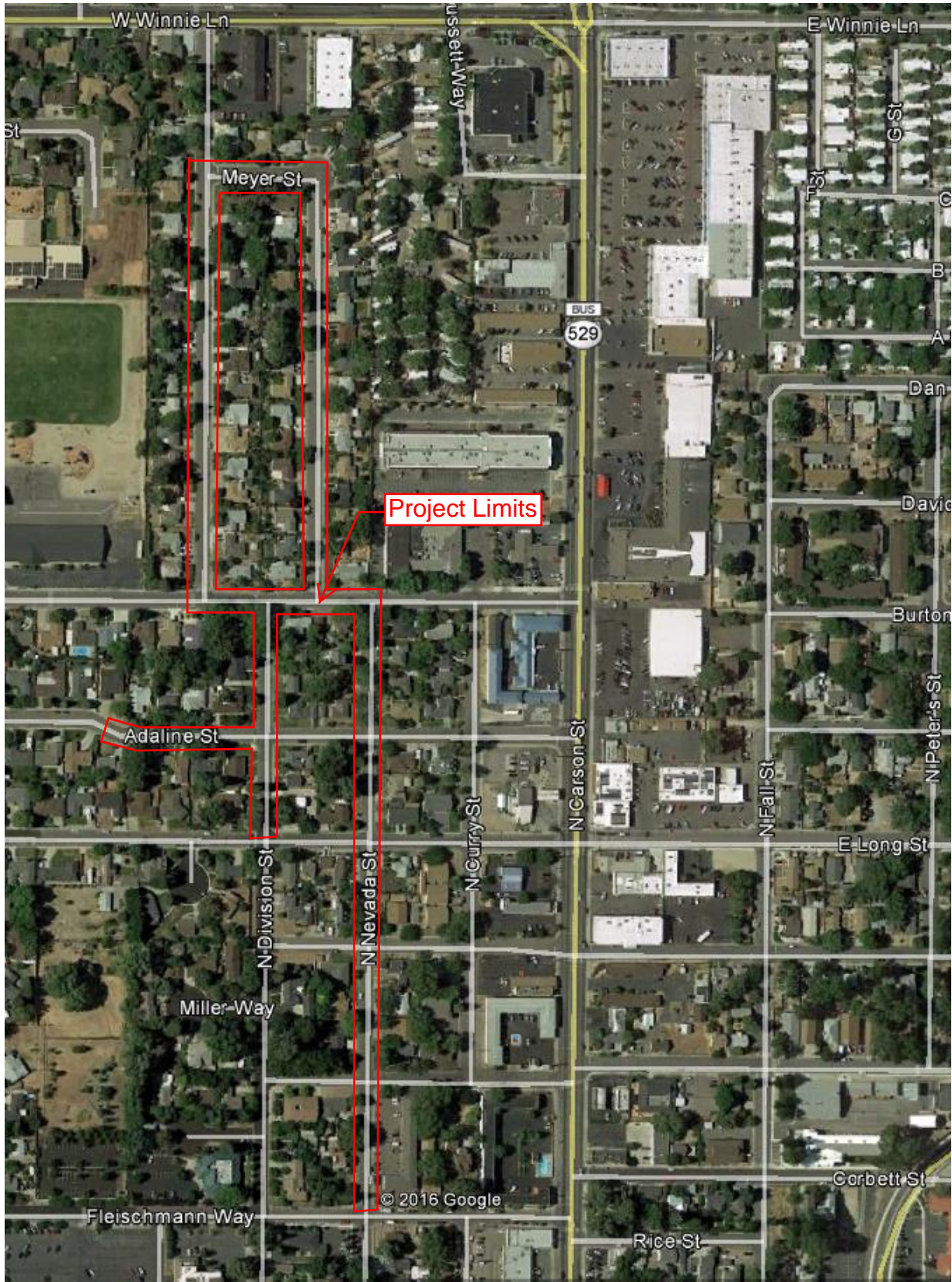
<http://www.carson.org/index.aspx?page=998>

Notice to Contractors Bid# 1617-119 N. Nevada St. & N. Division St. Sewer and Water Main Replacement

Date and Time of Opening: March 28, 2017 @ 11:10 a.m.

Description			Bidder # 1		Bidder # 2		Bidder # 3		
			Peek Brothers Construction		SNC		MKD		
BONDING Provided, \$, %, or no			5%		5%		5%		
BIDDER acknowledges receipt addendums			1		1		1		
Description	Sched Value	Unit	Unit price	Total price	Unit price	Total price	Unit price	Total price	
Base Bid Items - Schedule A									
1	Mobilization, Demobilization, and Clean-up	1	LS	\$85,000.00	\$85,000.00	\$15,646.00	\$15,646.00	\$230,000.00	\$230,000.00
2	Traffic Control	1	LS	\$150,000.00	\$150,000.00	\$113,000.00	\$113,000.00	\$49,000.00	\$49,000.00
3	Surveying and Record Drawings	1	LS	\$26,000.00	\$26,000.00	\$20,000.00	\$20,000.00	\$23,850.00	\$23,850.00
4	Over Excavation of Unsuitable Materials	500	CY	\$92.50	\$46,250.00	\$32.00	\$16,000.00	\$100.00	\$50,000.00
5	Bypass Pumping	1	LS	\$9,000.00	\$9,000.00	\$25,000.00	\$25,000.00	\$49,000.00	\$49,000.00
6	Slurry Fill Existing 6" Sewer Main	545	LF	\$8.00	\$4,360.00	\$16.00	\$8,720.00	\$16.00	\$8,720.00
7	Slurry Fill Existing 8" Sewer Main	550	LF	\$9.50	\$5,225.00	\$10.00	\$5,500.00	\$17.00	\$9,350.00
8	Removal of Existing Manhole	16	EA	\$2,450.00	\$39,200.00	\$2,000.00	\$32,000.00	\$2,600.00	\$41,600.00
9	4" SDR35 PVC Sewer Lateral	2515	LF	\$104.00	\$261,560.00	\$135.00	\$339,525.00	\$132.00	\$331,980.00
10	8SDR35 PVC Sewer Main	4260	LF	\$73.00	\$310,980.00	\$175.00	\$745,500.00	\$85.00	\$362,100.00
11	48" Diameter Manhole	18	EA	\$4,650.00	\$83,700.00	\$6,500.00	\$117,000.00	\$6,500.00	\$117,000.00
12	Core Drill and Modify Base of Existing Sewer Manhole	1	EA	\$1,100.00	\$1,100.00	\$2,000.00	\$2,000.00	\$3,350.00	\$3,350.00
13	Remove Existing Gate Valve	5	EA	\$1,050.00	\$5,250.00	\$600.00	\$3,000.00	\$950.00	\$4,750.00
14	Remove and Replace Existing Fire Hydrant Assembly	3	EA	\$8,600.00	\$25,800.00	\$10,000.00	\$30,000.00	\$10,000.00	\$30,000.00
15	8" C900 Water Main	540	LF	\$93.50	\$50,490.00	\$120.00	\$64,800.00	\$110.00	\$59,400.00
16	6" C900 Water Main	1190	LF	\$71.50	\$85,085.00	\$110.00	\$130,900.00	\$75.00	\$89,250.00
17	8" Gate Valve	4	EA	\$3,650.00	\$14,600.00	\$3,000.00	\$12,000.00	\$2,550.00	\$10,200.00
18	6" Gate Valve	4	EA	\$3,300.00	\$13,200.00	\$2,500.00	\$10,000.00	\$2,200.00	\$8,800.00
19	Install New Ball Valve, Yoke, and Check Valve on Existing Service	47	EA	\$1,960.00	\$92,120.00	\$1,000.00	\$47,000.00	\$1,550.00	\$72,850.00
20	Replace Existing Water Service Line with 1" PE Line	1150	LF	\$69.50	\$79,925.00	\$65.00	\$74,750.00	\$110.00	\$126,500.00
21	Sawcut and Remove Bituminous Surface (for permanent patching)	22450	SF	\$1.20	\$26,940.00	\$1.90	\$42,655.00	\$3.35	\$75,207.50
22	Permanent AC Pavement Patch (5" AC on 8" Agg Base) With Lime	22450	SF	\$4.75	\$106,637.50	\$4.00	\$89,800.00	\$5.75	\$129,087.50
23	Material to Accommodate New Pavement	59800	SF	\$1.22	\$72,956.00	\$0.95	\$56,810.00	\$1.75	\$104,650.00
24	8" of Type 2 Aggregate Basw	59800	SF	\$1.10	\$65,780.00	\$0.95	\$56,810.00	\$1.65	\$98,670.00
25	4" Plantmix Pavement Type 2 Agg., NV 64-28 w/Lime	59800	SF	\$2.35	\$140,530.00	\$2.30	\$137,540.00	\$2.70	\$161,460.00
26	Type 2 Slurry Seal	120000	SF	\$0.22	\$26,400.00	\$0.23	\$27,600.00	\$0.26	\$31,200.00
27	Adjust Existing Water Valve Can to Grade	2	EA	\$450.00	\$900.00	\$1,000.00	\$2,000.00	\$1,000.00	\$2,000.00
28	Painted Pavement Marking 24" Solid White Line (crosswalk and stop bars)	800	LF	\$3.20	\$2,560.00	\$3.25	\$2,600.00	\$3.05	\$2,440.00
29	Painted Pavement Marking Yield Bar	60	SF	\$7.80	\$468.00	\$8.00	\$480.00	\$7.50	\$450.00
30	Remove Existing PCC Flatwork (Sidewalks, Driveway Aprons, and Driveways)	4050	SF	\$4.45	\$18,022.50	\$3.50	\$14,175.00	\$4.00	\$16,200.00
31	Remove Existing PCC Curb and Gutter	1210	LF	\$5.00	\$6,050.00	\$15.50	\$18,755.00	\$12.00	\$14,520.00
32	Remove Existing PCC Retaining Curb	25	LF	\$5.00	\$125.00	\$4.50	\$112.50	\$25.00	\$625.00
33	Remove PCC Spandrel / Valley Gutter	140	SF	\$5.00	\$700.00	\$4.00	\$560.00	\$12.00	\$1,680.00
34	Type A PCC Sidewalk (4" Concrete on 4" Aggregate Base)	3200	SF	\$14.00	\$44,800.00	\$11.00	\$35,200.00	\$13.60	\$43,520.00
35	Type 1 PCC Curb and Gutter on 6" of Aggregate Base	1100	LF	\$40.00	\$44,000.00	\$35.00	\$38,500.00	\$50.00	\$55,000.00

36	PCC Retaining Curb	6	LF	\$47.00	\$282.00	\$37.50	\$225.00	\$250.00	\$1,500.00
37	Residential PCC Driveway Apron (6" Conc. On 6" Base)	320	SF	\$18.00	\$5,760.00	\$14.00	\$4,480.00	\$18.50	\$5,920.00
38	PCC Driveway (6" Conc. On 6" Base)	90	SF	\$21.00	\$1,890.00	\$13.25	\$1,192.50	\$21.50	\$1,935.00
39	PCC Spandrel / Valley Gutter (6" Conc. On 6" Base) (including curb)	270	SF	\$21.00	\$5,670.00	\$15.30	\$4,131.00	\$22.50	\$6,075.00
40	PCC Pedestrian Ramp with Detectable Warning Plate (4" Conc. On 4" Base)	730	SF	\$39.00	\$28,470.00	\$22.00	\$16,060.00	\$33.00	\$24,090.00
41	Removal and Restoration of Existing Site Improvements	1	LS	\$10,000.00	\$10,000.00	\$2,500.00	\$2,500.00	\$25,000.00	\$25,000.00
42	Reinstall Existing Traffic Sign	1	EA	\$350.00	\$350.00	\$360.00	\$360.00	\$335.00	\$335.00
BP.2.1 Total Base Bid Price (Schedule A)				\$1,998,136.00		\$2,364,887.00		\$2,479,265.00	
Schedule B:									
AA1	Price Adjustment for Road Bed Modification (see SC 3.44)	59800	SF	\$1.70	\$101,660.00	\$ (0.607)	\$ (35,880.007)	\$ (1.30)	-\$77,740.00
BP.2.2 Total Price (Schedule A + Schedule B)				\$2,099,796.00		\$2,329,007.00		\$2,401,525.00	
Total Bid Price written in words? y/n				Y		Y		Y	
Bidder Information provided? y/n				Y		Y		Y	
Sub Contractors listed? y/n or none				5%, 1%, Other		5%, 1%, Other		5%, 1%, Other	
Bid Document executed? y/n				Y		Y		Y	



CONSTRUCTION INDEPENDENT CONTRACTOR AGREEMENT

Contract No: 1617-119

Title: N. Nevada St. & N. Division St. Sewer & Water Main Replacement

THIS CONTRACT is made and entered into this 20th day of April, 2017, by and between Carson City, a consolidated municipality, a political subdivision of the State of Nevada, hereinafter referred to as "CITY", and Peek Brothers Construction, Inc., hereinafter referred to as "CONTRACTOR".

WITNESSETH:

WHEREAS, the Purchasing and Contracts Manager for CITY is authorized pursuant to Nevada Revised Statutes (hereinafter referred to as "NRS") 338 and Carson City Purchasing Resolution #1990-R71, to approve and accept this Contract as set forth in and by the following provisions; and

WHEREAS, this Contract involves a "public work," which pursuant to NRS 338.010(17) means any project for the new construction, repair or reconstruction of an applicable project financed in whole or in part from public money; and

WHEREAS, CONTRACTOR'S compensation under this agreement (does___) (does not X___) utilize in whole or in part money derived from one or more federal grant funding source(s); and

WHEREAS, it is deemed necessary that the services of CONTRACTOR for **CONTRACT No. 1617-119**, titled **N. Nevada St. & N. Division St. Sewer & Water Main Replacement** (hereinafter referred to as "Contract") are both necessary and in the best interest of CITY; and

NOW, THEREFORE, in consideration of the aforesaid premises, and the following terms, conditions and other valuable consideration, the parties mutually agree as follows:

1. REQUIRED APPROVAL:

This Contract shall not become effective until and unless approved by the Carson City Board of Supervisors.

2. SCOPE OF WORK (Incorporated Contract Documents):

2.1 The parties agree that the Scope of Work will be specifically described and hereinafter referred to as the "WORK." This Contract incorporates the following attachments, and a **CONTRACTOR'S** attachment shall not contradict or supersede any **CITY** specifications and/or terms or conditions without written evidence of mutual assent to such change appearing in this Contract:

2.1.1 **CONTRACTOR** agrees that the Contract Documents for Bid No.1617-119 including, but not limited to, the Notice to Contractors, Table of Contents, Project Coordination, Instructions to Bidders, Contract Award Information, General Conditions, Special Conditions, Technical Specification, Prevailing Wages, Contract Drawings, and Addenda, if any, are intended to be complete and complementary and are intended to describe a complete WORK. These documents are incorporated herein by reference and made a part of this Contract. All of these documents can be reviewed in person at the Public Works Department 3505 Butti Way, Carson City, Nevada, 89701 or on the Carson City Website <http://ww.carson.org/currentbids>.

2.1.2 **CONTRACTOR** additionally agrees **CONTRACTOR'S** Bid Bond, Bid Proposal, Proposal Summary, Executed Contract, Performance Bond, Labor and Material Bond, Certificate of Eligibility, Insurance Certificates, Permits, Notice of Award, Notice to Proceed and Executed Change Orders, hereinafter all referred to as Exhibit A, are incorporated herein and made a part of this Contract.

For P&C Use Only	
CCBL expires	_____
NVCL expires	_____
GL expires	_____
AL expires	_____
WC expires	_____

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3. CONTRACT TERM AND LIQUIDATED DAMAGES:

3.1 **CONTRACTOR** agrees to complete the WORK on or before the date specified in the Notice to Proceed or any executed Change Orders to the entire satisfaction of **CITY** before final payment is made, unless sooner termination by either party as specified in Section 6 (CONTRACT TERMINATION) and the General Conditions, Section GC 3.18.

3.2 Pursuant to the provisions under Time for Completion and Liquidated Damages in the Contract Documents of said Specifications, **CONTRACTOR** will complete the WORK within the Contract time. Since **CITY** and **CONTRACTOR** agree it is difficult to ascertain the actual amount of damages incurred due to delay of the Project, it is agreed that **CITY** will be paid the liquidated damages as specified in the Contract Special Conditions for each and every calendar day of delay in the completion of the WORK, in addition to any direct charges incurred by **CITY** as a result of delay of the Project, including engineering fees and additional damages due to late construction. **CITY** also reserves the right to deduct any amounts due **CITY** from any monies earned by **CONTRACTOR** under this Contract.

3.3 That in the performance of this Contract, **CONTRACTOR** and any subcontractors, as employers, shall pay 1 ½ times an employee's regular wage rate whenever an employee who received compensation for employment at a rate less than 1 ½ time the minimum wage who works more than forty (40) hours in any scheduled work week, more than eight (8) hours in a day, unless by mutual agreement the employee works a scheduled ten (10) hours per day for four (4) calendar days within a work week. Employers should refer to NRS 608.018, NRS 338.020 and A.O. 2013-04 for further details on overtime requirements.

4. NOTICE:

4.1 Except the bid and award process where notices may be limited to postings by **CITY** on its Finance Department/Bid Opportunities website (www.carson.org), all notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by e-mail, by regular mail, by telephonic facsimile with simultaneous regular mail, or by certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified below.

4.2 Notice to **CONTRACTOR** shall be addressed to:

Travis Peek, President
Peek Brothers Construction, Inc.
P.O. Box 2608
Fernley, NV 89408
email: travis@peekbrothers.net

4.3 Notice to **CITY** shall be addressed to:

Carson City Purchasing and Contracts Department
Laura Rader, Purchasing and Contracts Administrator
201 North Carson Street, Suite 3
Carson City, NV 89701
775-283-7362 / FAX 775-887-2107
Lrader@carson.org

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5. COMPENSATION:

5.1 The parties agree that **CONTRACTOR** will provide the WORK specified in the Contract for the Contract Amount of One Million Nine Hundred Ninety Eight Thousand One Hundred Thirty Six Dollars and 00/100 (\$1,998,136.00).

5.2 **CITY** will pay **CONTRACTOR** progress payments and the final payment computed from the actual quantities of WORK performed and accepted and the materials furnished at the Unit and Lump Sum prices shown on **CONTRACTOR'S** Bid Proposal and any executed Change Orders.

5.3 Contract Amount represents full and adequate compensation for the complete WORK, and includes the furnishing of all materials, all labor, equipment, tools, transportation, services, appliances, and all expenses, direct or indirect connected with the proper execution of the WORK.

5.4 **CITY** does not agree to reimburse **CONTRACTOR** for expenses unless otherwise specified.

6. CONTRACT TERMINATION:

6.1 Termination Without Cause:

6.1.1 Any discretionary or vested right of renewal notwithstanding, this Contract may be terminated upon written notice by mutual consent of both parties or unilaterally by either party without cause.

6.1.2 **CITY** reserves the right to terminate this Contract for convenience whenever it considers termination, in its sole and unfettered discretion, to be in the public interest. In the event that the Contract is terminated in this manner, payment will be made for WORK actually completed. If termination occurs under this provision, in no event shall **CONTRACTOR** be entitled to anticipated profits on items of WORK not performed as of the effective date of the termination or compensation for any other item, including but not limited to, unabsorbed overhead. **CONTRACTOR** shall require that all subcontracts which it enters related to this Contract likewise contain a termination for convenience clause which precludes the ability of any subcontractor to make claims against **CONTRACTOR** for damages due to breach of contract, lost profit on items of WORK not performed, or unabsorbed overhead, in the event of a convenience termination.

6.2 Termination for Nonappropriation:

6.2.1 All payments and WORK provided under this Contract are contingent upon the availability of the necessary public funding, which may include various internal and external sources. In the event that Carson City does not acquire and appropriate the funding necessary to perform in accordance with the terms of the Contract, the Contract shall automatically terminate upon **CITY'S** notice to **CONTRACTOR** of such nonappropriation, and no claim or cause of action may be based upon any such nonappropriation.

6.3 Cause Termination for Default or Breach:

6.3.1 A default or breach may be declared with or without termination.

6.3.2 This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:

6.3.2.1 If **CONTRACTOR** fails to provide or satisfactorily perform any of the conditions, WORK, deliverables, goods, or any services called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or

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6.3.2.2 If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **CONTRACTOR** to provide the goods or WORK or any services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or

6.3.2.3 If **CONTRACTOR** becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or

6.3.2.4 If **CITY** materially breaches any material duty under this Contract and any such breach impairs **CONTRACTOR'S** ability to perform; or

6.3.2.5 If it is found by **CITY** that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by **CONTRACTOR**, or any agent or representative of **CONTRACTOR**, to any officer or employee of **CITY** with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or

6.3.2.6 If it is found by **CITY** that **CONTRACTOR** has failed to disclose any material conflict of interest relative to the performance of this Contract.

6.3.2.7 **CITY** may terminate this Contract if **CONTRACTOR**:

6.3.2.7.1 Fails to maintain bonding, Nevada State Contractors' Board License, State Industrial Insurance requirements or insurance policies for limits as defined in this Contract; or

6.3.2.7.2 Persistently or materially refuses or fails to supply properly skilled workers or proper materials; or

6.3.2.7.3 Fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between **CONTRACTOR** and the subcontractors; or

6.3.2.7.4 Disregards laws, ordinances, or rules, regulations or order of a public authority having jurisdiction; or

6.3.2.7.5 Otherwise makes a material breach of a provision of this Contract; or

6.3.2.7.6 **CONTRACTOR** fails to maintain safe working conditions.

6.3.3 When any of the **Subsection 6.3.2.7.1 through 6.3.2.7.6, inclusive**, cause reasons exist, and without prejudice to any other rights or remedies of **CITY**, **CITY** may terminate this Contract at any time after giving **CONTRACTOR** and **CONTRACTOR'S** Surety seven (7) calendar days written notice of default or breach and intent to terminate and **CONTRACTOR'S** subsequent failure to timely correct as provided below, and subject to any prior rights of the Surety, **CITY** may:

6.3.3.1 Take possession of the site and of all materials, equipment, tools and construction equipment and machinery thereon owned by **CONTRACTOR**;

6.3.3.2 Accept assignment of subcontractors pursuant to this Contract (Contingent

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Assignment of Subcontracts to Carson City if this Contract is terminated); and

6.3.3.3 Finish the WORK by whatever reasonable method **CITY** may deem expedient.

6.3.4 If **CITY** terminates this Contract for any of the cause reasons stated in **Section 6.3**:

6.3.4.1 **CONTRACTOR** shall not be entitled to receive further payment until the WORK is finished.

6.3.4.2 If the unpaid balance of the Contract Amount exceeds the cost of finishing the WORK including expenses made necessary thereby, such excess shall be paid to **CONTRACTOR**. If the costs of finishing the WORK exceed the unpaid balance, **CONTRACTOR** shall pay the difference to **CITY**. The amount to be paid to **CONTRACTOR** or **CITY**, as the case may be, shall survive termination of this Contract.

6.3.4.3 In the event of such cause termination, all monies due **CONTRACTOR** or retained under the terms of this Contract shall be held by **CITY**, however, such holdings will not release **CONTRACTOR** or its Sureties from liability for failure to fulfill this Contract. Any excess cost over and above the Contract Amount incurred by **CITY** arising from the termination of the operations of this Contract and the completion of the WORK by **CITY** as provided above shall be paid for by any available funds held by **CITY**. **CONTRACTOR** will be so credited with any surplus remaining after all just claims for such completion have been paid.

6.4 If at any time before completion of the WORK under this Contract, the WORK shall be stopped by an injunction of a court of competent jurisdiction or by order of any competent government authority, **CITY** may give immediate notice to **CONTRACTOR** to discontinue the WORK and terminate this Contract. **CONTRACTOR** shall discontinue the WORK in such manner, sequence, and at such times as **CITY** may direct. **CONTRACTOR** shall have no claim for damages for such discontinuance or termination, nor any claim for anticipated profits on the WORK thus dispensed with, nor for any claim for penalty, nor for any other claim such as unabsorbed overhead, except for the WORK actually performed up to the time of discontinuance, including any extra WORK ordered by **CITY** to be done.

6.5 Time to Correct (Declared Default or Breach):

6.5.1 Termination upon a declared default or breach may be exercised only after providing 7 (seven) calendar days written notice of default or breach, and the subsequent failure of the defaulting or breaching party, within five (5) calendar days of providing that default or breach notice, to provide evidence satisfactory to the aggrieved party demonstrating that the declared default or breach has been corrected. Time to correct shall run concurrently with any notice of default or breach and such time to correct is not subject to any stay with respect to the nonexistence of any Notice of Termination. Untimely correction shall not void the right to termination otherwise properly noticed unless waiver of the noticed default or breach is expressly provided in writing by the aggrieved party. There shall be no time to correct with respect to any notice of termination without cause, termination for nonappropriation or termination due to court injunction or order of a competent government authority.

6.6 Winding Up Affairs Upon Termination:

6.6.1 In the event of termination of this Contract for any reason, the parties agree that the provisions of this **Subsection 6.6** survive termination:

6.6.1.1 The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions

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solely based on nonpayment of fees or expenses accrued up to the time of termination;
and

6.6.1.2 **CONTRACTOR** shall satisfactorily complete WORK in progress at the agreed rate (or a pro rata basis if necessary) if so requested by **CITY**; and

6.6.1.3 **CONTRACTOR** shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by **CITY**; and

6.6.1.4 **CONTRACTOR** shall preserve, protect, and promptly deliver into **CITY** possession all proprietary information in accordance with **Section 21**.

6.7 Notice of Termination:

6.7.1 Unless otherwise specified in this Contract, termination shall not be effective until seven (7) calendar days after a party has provided written notice of default or breach, or notice of without cause termination. Notice of Termination may be given at the time of notice of default or breach, or notice of without cause termination. Notice of Termination may be provided separately at any time after the running of the 7-day notice period, and such termination shall be effective on the date the Notice of Termination is provided to the party unless a specific effective date is otherwise set forth therein. Any delay in providing a Notice of Termination after the 7-day notice period has run without a timely correction by the defaulting or breaching party shall not constitute any waiver of the right to terminate under the existing notice(s).

7. DAVIS-BACON & RELATED ACTS 29 CFR PARTS 1,3,5,6,&7 AND NRS 338.070(5):

7.1 **CONTRACTOR** shall comply with Davis-Bacon Act and NRS 338.070(5). **CONTRACTOR** and each covered contractor or subcontractor must provide a weekly statement of wages paid to each of its employees engaged in covered WORK. The statement shall be executed by **CONTRACTOR** or subcontractor or by an authorized officer or employee of **CONTRACTOR** or subcontractor who supervised the payment of wages and shall be on the "Statement of Compliance" form. **CONTRACTOR** shall submit a Statement of Compliance that is prescribed by the Nevada Labor Commissioner or contains identical wording. Per NRS 338.070(6) the records maintained pursuant to subsection 5 must be open at all reasonable hours to the inspection of the public body (the **CITY'S** representative) awarding the contract. The **CONTRACTOR** engaged on the public work or subcontractor engaged on the public work shall ensure that a copy of each record for each calendar month is received by the public body awarding the contract (the **City**) **no later than 15 days after the end of the month**.

7.2 In the event federal funds are used for payment of all or part of this Contract, **CONTRACTOR** shall submit a Statement of Compliance form WH347 or a form with identical wording and a Statement of Compliance prescribed by the Nevada Labor Commissioner **within 7 days after the regular pay date for the pay period**. The original Statements shall be delivered to Carson City Public Works, 3505 Butti Way, Carson City, Nevada 89703, attention Davis-Bacon/Federal Funding Compliance.

7.3 CERTIFIED PAYROLLS FOR DAVIS-BACON AND PREVAILING WAGE PROJECTS:

7.3.1 The higher of the Federal or local prevailing wage rates for **CITY**, as established by the Nevada Labor Commission and the Davis-Bacon Act, shall be paid for all classifications of labor on this project WORK. Should a classification be missing from the Davis-Bacon rates the **CONTRACTOR** shall complete a request of authorization for additional classification or rate form SF1444 in its entirety and submit it to the **CITY** for approval and submission to the U.S. Department of Labor. Also, in accordance with NRS 338, the hourly and daily wage rates for the State and Davis-Bacon must be posted at the work site by **CONTRACTOR**. **CONTRACTOR** shall

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ensure that a copy of **CONTRACTOR'S** and subcontractor's certified payrolls for each calendar week are received by **CITY**.

7.3.2 Per NRS 338.070(5) a **CONTRACTOR** engaged on a public work and each subcontractor engaged on the public work shall keep or cause to be kept:

(a) An accurate record showing, for each worker employed by the contractor or subcontractor in connection with the public work:

(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; and

(b) An additional accurate record showing, for each worker employed by the contractor or subcontractor in connection with the public work who has a driver's license or identification card:

(1) The name of the worker;

(2) The driver's license number or identification card number of the worker; and

(3) The state or other jurisdiction that issued the license or card.

7.3.3 The original payroll records shall be certified and shall be submitted weekly to Carson City Public Works, 3505 Butti Way, Carson City, Nevada 89703, attention Davis-Bacon/Federal Funding Compliance. Submission of such certified payrolls shall be a condition precedent for processing the monthly progress payment. **CONTRACTOR**, as General Contractor, shall collect the wage reports from the subcontractors and ensure the receipt of a certified copy of each weekly payroll for submission to **CITY** as one complete package.

7.3.4 Pursuant to NRS 338.060 and 338.070, **CONTRACTOR** hereby agrees to forfeit, as a penalty to **CITY**, not less than Twenty Dollars (\$20) nor more than Fifty Dollars (\$50) for each calendar day or portion thereof that each worker employed on the Contract is paid less than the designated rate for any WORK done under the Contract, by **CONTRACTOR** or any subcontractor under him/her, or is not reported to **CITY** as required by NRS 338.070.

8. FAIR EMPLOYMENT PRACTICES:

8.1 Pursuant to NRS 338.125, Fair Employment Practices, the following provisions must be included in any contract between **CONTRACTOR** and a public body such as **CITY**:

8.1.1 ***In connection with the performance of work under this Contract, CONTRACTOR agrees not to discriminate against any employee or applicant for employment because of***

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race, creed, color, national origin, sex, sexual orientation, gender identity, or age, including, without limitation, with regard to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including without limitation, apprenticeship.

8.1.2 **CONTRACTOR** further agrees to insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

9. **PREFERENTIAL EMPLOYMENT:**

9.1 Unless, and except if, this Contract is funded in whole or in part by federal grant funding (see 40 C.F.R. § 31.36(c) *Competition*), pursuant to NRS 338.130, in all cases where persons are employed in the construction of public works, preference must be given, the qualifications of the applicants being equal: (1) First: To persons who have been honorably discharged from the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States, a reserve component thereof or the National Guard; and are citizens of the State of Nevada. (2) Second: To other citizens of the State of Nevada.

9.2 Unless, and except if, this Contract is funded in whole or in part by federal grant funding (see 40 CFR § 31.36(c) *Competition*), in connection with the performance of WORK under this Contract, **CONTRACTOR** agrees to comply with the provisions of NRS 338.130 requiring certain preferences to be given to which persons are employed in the construction of a public work. If **CONTRACTOR** fails to comply with the provisions of NRS 338.130, pursuant to the terms of NRS 338.130(3), this Contract is void, and any failure or refusal to comply with any of the provisions of this section renders this Contract void.

10. **REMEDIES:**

Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorney's fees and costs. The parties agree that, in the event a lawsuit is filed and a party is awarded attorney's fees by the court, for any reason, the amount of recoverable attorney's fees shall not exceed the rate of \$125 per hour. **CITY** may set off consideration against any unpaid obligation of **CONTRACTOR** to **CITY**.

11. **LIMITED LIABILITY:**

CITY will not waive and intends to assert available NRS Chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise expressly provided for elsewhere in this Contract. Damages for any **CITY** breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to **CONTRACTOR**, for the fiscal year budget in existence at the time of the breach. **CONTRACTOR'S** tort liability shall not be limited.

12. **FORCE MAJEURE:**

Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of this Contract after the intervening cause ceases.

13. **INDEMNIFICATION:**

13.1 To the extent permitted by law, including, but not limited to, the provisions of NRS Chapter 41, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other party from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorney's fees and costs, arising out of any alleged negligent or willful acts or omissions of the indemnifying party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of the indemnity which

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would otherwise exist as to any party or person described in this Section.

13.2 Except as otherwise provided in **Subsection 13.4** below, the indemnifying party shall not be obligated to provide a legal defense to the indemnified party, nor reimburse the indemnified party for the same, for any period occurring before the indemnified party provides written notice of the pending claim(s) or cause(s) of action to the indemnifying party, along with:

13.2.1 a written request for a legal defense for such pending claim(s) or cause(s) of action; and

13.2.2 a detailed explanation of the basis upon which the indemnified party believes that the claim or cause of action asserted against the indemnified party implicates the culpable conduct of the indemnifying party, its officers, employees, and/or agents.

13.3 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall not be obligated to fund or reimburse any fees or costs provided by any additional counsel for the indemnified party, including counsel through which the indemnified party might voluntarily choose to participate in its defense of the same matter.

13.4 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall be obligated to reimburse the reasonable attorney's fees and costs incurred by the indemnified party during the initial thirty (30) day period of the claim or cause of action, if any, incurred by separate counsel.

14. **INDEPENDENT CONTRACTOR:**

14.1 **CONTRACTOR**, as an independent contractor, is a natural person, firm or corporation who agrees to perform WORK for a fixed price according to his or its own methods and without subjection to the supervision or control of the **CITY**, except as to the results of the WORK, and not as to the means by which the WORK are accomplished.

14.2 It is mutually agreed that **CONTRACTOR** is associated with **CITY** only for the purposes and to the extent specified in this Contract, and in respect to performance of the contracted WORK pursuant to this Contract. **CONTRACTOR** is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract.

14.3 Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for **CITY** whatsoever with respect to the indebtedness, liabilities, and obligations of **CONTRACTOR** or any other party.

14.4 **CONTRACTOR**, in addition to **Section 13** (INDEMNIFICATION), shall indemnify and hold **CITY** harmless from, and defend **CITY** against, any and all losses, damages, claims, costs, penalties, liabilities, expenses arising out of or incurred in any way because of, but not limited to, **CONTRACTOR'S** obligations or legal duties regarding any taxes, fees, assessments, benefits, entitlements, notice of benefits, employee's eligibility to work, to any third party, subcontractor, employee, state, local or federal governmental entity.

14.5 Neither **CONTRACTOR** nor its employees, agents, or representatives shall be considered employees, agents, or representatives of **CITY**.

15. **INSURANCE REQUIREMENTS (GENERAL):**

15.1 **NOTICE: The following general insurance requirements shall apply unless these general requirements are altered by the specific requirements set forth in CITY'S solicitation for bid document, the adopted bid or other document incorporated into this Contract by the parties. These general insurance requirements do not include terms related to bond(s) required for this Contract, which are set forth in the CITY'S solicitation and below in this Contract following the execution pages.**

15.2 **CONTRACTOR**, as an independent contractor and not an employee of **CITY**, must carry policies

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of insurance in amounts specified and pay all taxes and fees incident hereunto. **CITY** shall have no liability except as specifically provided in this Contract.

15.3 **CONTRACTOR** shall not commence work before: (1) **CONTRACTOR** has provided the required evidence of insurance to **CITY** Purchasing and Contracts, and (2) **CITY** has approved the insurance policies provided by **CONTRACTOR**.

15.4 Prior approval of the insurance policies by **CITY** shall be a condition precedent to any payment of consideration under this Contract and **CITY'S** approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent this Contract. Any failure of **CITY** to timely approve shall not constitute a waiver of the condition.

15.5 *Insurance Coverage (15.6 through 15.23):*

15.6 **CONTRACTOR** shall, at **CONTRACTOR'S** sole expense, procure, maintain and keep in force for the duration of this Contract the following insurance conforming to the minimum requirements specified below. Unless specifically specified herein or otherwise agreed to by **CITY**, the required insurance shall be in effect prior to the commencement of work by **CONTRACTOR** and shall continue in force as appropriate until the later of:

15.6.1 Final acceptance by **CITY** of the completion of this Contract; or

15.6.2 Such time as the insurance is no longer required by **CITY** under the terms of this Contract.

15.6.3 Any insurance or self-insurance available to **CITY** under its coverage(s) shall be in excess of and non-contributing with any insurance required from **CONTRACTOR**. **CONTRACTOR'S** insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by **CITY**, **CONTRACTOR** shall provide **CITY** with renewal or replacement evidence of insurance no less than thirty (30) calendar days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by this Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as **CONTRACTOR** has knowledge of any such failure, **CONTRACTOR** shall immediately notify **CITY** and immediately replace such insurance or bond with an insurer meeting the requirements.

15.7 *General Insurance Requirements (15.8 through 15.23):*

15.8 **Certificate Holder:** Each certificate shall list Carson City c/o Carson City Purchasing and Contracts, 201 N. Carson Street, Suite 3, Carson City, NV 89701 as a certificate holder.

15.9 **Additional Insured:** By endorsement to the general liability insurance policy evidenced by **CONTRACTOR**, The City and County of Carson City, Nevada, its officers, employees and immune contractors shall be named as additional insureds for all liability arising from this Contract.

15.10 **Waiver of Subrogation:** Each liability insurance policy, except for professional liability, shall provide for a waiver of subrogation in favor of the City.

15.11 **Cross-Liability:** All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.

15.12 **Deductibles and Self-Insured Retentions:** Insurance maintained by **CONTRACTOR** shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by **CITY**. Such approval shall not relieve **CONTRACTOR** from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$5,000.00 per occurrence, unless otherwise approved by **CITY**.

15.13 **Policy Cancellation:** Except for ten (10) calendar days notice for non-payment of premium, **CONTRACTOR** or its insurers must provide thirty (30) calendar days prior written notice to Carson City Purchasing and Contracts if any policy will be canceled, non-renewed or if required coverage and /or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent

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by mail to Carson City Purchasing and Contracts, 201 N. Carson Street, Suite 3, Carson City, NV 89701. When available, each insurance policy shall be endorsed to provide thirty (30) days' notice of cancellation, except for ten (10) days' notice for non-payment of premium, to City.

15.14 **Approved Insurer:** Each insurance policy shall be issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers under federal and Nevada law and having agents in Nevada upon whom service of process may be made, and currently rated by A.M. Best as "A-VII" or better.

15.15 **Evidence of Insurance:** Prior to commencement of work, **CONTRACTOR** must provide the following documents to Carson City Purchasing and Contracts, 201 North Carson Street, Suite 3, Carson City, NV 89701:

15.16 **Certificate of Insurance:** Contractor shall furnish City with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth herein. The Acor 25 Certificate of Insurance form or a form substantially similar must be submitted to Carson City Purchasing and Contracts to evidence the insurance policies and coverages required of **CONTRACTOR**.

15.17 **Additional Insured Endorsement:** An Additional Insured Endorsement (CG20 10 or C20 26), signed by an authorized insurance company representative, must be submitted to Carson City Purchasing and Contracts to evidence the endorsement of **CITY** as an additional insured per **Subsection 15.9** (Additional Insured).

15.18 **Schedule of Underlying Insurance Policies:** If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the Underlying Schedule from the Umbrella or Excess insurance policy may be required.

15.19 **Review and Approval:** Documents specified above must be submitted for review and approval by **CITY** Purchasing and Contracts prior to the commencement of work by **CONTRACTOR**. Neither approval by **CITY** nor failure to disapprove the insurance furnished by **CONTRACTOR** shall relieve **CONTRACTOR** of **CONTRACTOR'S** full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of **CONTRACTOR** or its sub-contractors, employees or agents to **CITY** or others, and shall be in addition to and not in lieu of any other remedy available to **CITY** under this Contract or otherwise. **CITY** reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

15.20 **COMMERCIAL GENERAL LIABILITY INSURANCE:**

Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000 each occurrence.

15.20.1 *Minimum Limits required:*

15.20.2 Two Million Dollars (\$2,000,000.00) - General Aggregate.

15.20.3 Two Million Dollars (\$2,000,000.00) - Products & Completed Operations. Aggregate

15.20.4 One Million Dollars (\$1,000,000.00) - Each Occurrence.

15.20.5 CGL insurance shall be written on ISO occurrence form CG 00 01 04 13 (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, products-completed operations, personal and advertising injury, and liability assumed under an insured contract [(including the tort liability of another assumed in a business contract)].

15.20.6 City and County of Carson City, Nevada, its officers, employees and immune contractors shall be included as an insured under the CGL, using ISO additional

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insured endorsement CG 20 10 or CG 20 26, or a substitute providing equivalent coverage, and under the commercial umbrella, if any.

15.20.7 This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to City There shall be no endorsement or modification of the CGL to make it excess over other available insurance; alternatively, if the CGL states that it is excess or pro rata, the policy shall be endorsed to be primary with respect to the additional insured.

15.20.8 There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability assumed under a contract.

15.20.9 Contractor waives all rights against City and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the commercial general liability or commercial umbrella liability insurance maintained pursuant to this Contract. Insurer shall endorse CGL policy as required to waive subrogation against City with respect to any loss paid under the policy

15.21 BUSINESS AUTOMOBILE LIABILITY INSURANCE:

15.21.1 *Minimum Limit required:*

15.21.2 Contractor shall maintain automobile liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident for bodily injury and property damage.

15.21.3 Such insurance shall cover liability arising out of owned, hired, and non-owned autos (as applicable). Coverage as required above shall be written on ISO form CA 00 01, CA 00 05, CA 00 25, or a substitute form providing equivalent liability coverage.

15.21.4 Contractor waives all rights against City and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the automobile liability or other liability insurance obtained by Contractor pursuant this Contract.

15.22 PROFESSIONAL LIABILITY INSURANCE (Architects, Engineers and Land Surveyors)

15.22.1 *Minimum Limit required:*

15.22.2 CONTRACTOR shall maintain professional liability insurance applying to all activities performed under this Contract with limits not less than One Million Dollars (\$1,000,000.00) and Two Million Dollars (\$2,000,000) in the aggregate.

15.22.3 Retroactive date: Prior to commencement of the performance of this Contract.

15.22.4 CONTRACTOR will maintain professional liability insurance during the term of this Contract and for a period of three (3) years after termination of this Contract unless waived by the City. In the event of non-renewal or other lapse in coverage during the term of this Contract or the three (3) year period described above, CONTRACTOR shall purchase Extended Reporting Period coverage for claims arising out of CONTRACTOR's negligence acts, errors and omissions committed during the term of the Professional Liability Policy. The Extended Reporting Period shall continue through a minimum of three (3) years after termination date of this Contract.

15.22.5 A certified copy of this policy may be required.

15.23 WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE:

15.23.1 **CONTRACTOR** shall provide workers' compensation insurance as required by NRS

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Chapters 616A through 616D inclusive and Employer's Liability insurance with a minimum limit not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease

15.23.2 **CONTRACTOR** may, in lieu of furnishing a certificate of an insurer, provide an affidavit indicating that **CONTRACTOR** is a sole proprietor; that **CONTRACTOR** will not use the services of any employees in the performance of this Contract; that **CONTRACTOR** has elected to not be included in the terms, conditions, and provisions of NRS Chapters 616A-616D, inclusive; and that **CONTRACTOR** is otherwise in compliance with the terms, conditions, and provisions of NRS Chapters 616A-616D, inclusive.

15.23.3 **CONTRACTOR** waives all rights against City and its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by the workers' compensation and employer's liability or commercial umbrella liability insurance obtained by Contractor pursuant to this Contract. Contractor shall obtain an endorsement equivalent to WC 00 03 13 to affect this waiver.

16. **BUSINESS LICENSE:**

16.1 **CONTRACTOR** shall not commence work before **CONTRACTOR** has provided a copy of his Carson City business license to Carson City Purchasing and Contracts.

16.2 The Carson City business license shall continue in force until the later of: (1) final acceptance by **CITY** of the completion of this Contract; or (2) such time as the Carson City business license is no longer required by **CITY** under the terms of this Contract.

17. **COMPLIANCE WITH LEGAL OBLIGATIONS:**

CONTRACTOR shall procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **CONTRACTOR** to provide the goods or WORK or any services of this Contract. **CONTRACTOR** will be responsible to pay all government obligations, including, but not limited to, all taxes, assessments, fees, fines, judgments, premiums, permits, and licenses required or imposed by law or a court. Real property and personal property taxes are the responsibility of **CONTRACTOR** in accordance with NRS Chapter 361 generally and NRS 361.157 and 361.159, specifically regarding for profit activity. **CONTRACTOR** agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract. **CITY** may set-off against consideration due any delinquent government obligation.

18. **WAIVER OF BREACH:**

Failure to declare a breach or the actual waiver of any particular breach of this Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

19. **SEVERABILITY:**

If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

20. **ASSIGNMENT / DELEGATION:**

To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by **CITY**, such offending portion of the assignment shall be void, and shall be a breach of this Contract. **CONTRACTOR** shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written approval of **CITY**. The parties do not intend to benefit any third party beneficiary regarding their respective performance under this Contract.

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21. CITY OWNERSHIP OF PROPRIETARY INFORMATION:

21.1 Any files, reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer programs, computer codes, and computer records (which are intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by **CONTRACTOR** (or its subcontractors) in performance of its obligations under this Contract shall be the exclusive property of **CITY** and all such materials shall be delivered into **CITY** possession by **CONTRACTOR** upon completion, termination, or cancellation of this Contract. **CONTRACTOR** shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of **CONTRACTOR'S** obligations under this Contract without the prior written consent of **CITY**. Notwithstanding the foregoing, **CITY** shall have no proprietary interest in any materials licensed for use by **CITY** that are subject to patent, trademark or copyright protection.

21.2 **CITY** shall be permitted to retain copies, including reproducible copies, of **CONTRACTOR'S** drawings, specifications, and other documents for information and reference in connection with this Contract.

21.3 **CONTRACTOR'S** drawings, specifications and other documents shall not be used by **CITY** or others without expressed permission of **CONTRACTOR**.

22. PUBLIC RECORDS:

Pursuant to NRS 239.010, information or documents received from **CONTRACTOR** may be open to public inspection and copying. **CITY** will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests. **CONTRACTOR** may clearly label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 332.061, provided that **CONTRACTOR** thereby agrees to indemnify and defend **CITY** for honoring such a designation. The failure to so label any document that is released by **CITY** shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

23. CONFIDENTIALITY:

CONTRACTOR shall keep confidential all information, in whatever form, produced, prepared, observed or received by **CONTRACTOR** to the extent that such information is confidential by law or otherwise required by this Contract.

24. FEDERAL FUNDING:

24.1 *In the event federal grant funds are used for payment of all or part of this Contract:*

24.1.1 **CONTRACTOR** certifies, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

24.1.2 **CONTRACTOR** and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.

24.1.3 **CONTRACTOR** and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and Executive Order 11478 (July 21, 2014) and shall not discriminate against any employee or

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offeror for employment because of race, national origin, creed, color, sex, sexual orientation, gender identity, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions).

24.14.1 If and when applicable to the particular federal funding and the Scope of Work under this Contract, **CONTRACTOR** and its subcontractors shall comply with: American Iron and Steel (AIS) provisions of P.L. 113-76, Consolidated Appropriations Act, 2014, Section 1605 – Buy American (100% Domestic Content of iron, steel and manufactured goods); Federal Highway Administration (FHWA) 23 U.S.C. § 313 – Buy America, 23 C.F.R. §635.410 (100% Domestic Content of steel, iron and manufactured products); Federal Transit Administration (FTA) 49 U.S.C. § 5323(j), 49 C.F.R. Part 661 – Buy America Requirements (See 60% Domestic Content for buses and other Rolling Stock).

25. LOBBYING:

25.1 The parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this Contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

25.1.1 Any federal, state, county or local agency, legislature, commission, council or board;

25.1.2 Any federal, state, county or local legislator, commission member, council member, board member, or other elected official; or

25.1.3 Any officer or employee of any federal, state, county or local agency; legislature, commission, council or board.

26. GENERAL WARRANTY:

CONTRACTOR warrants that it will perform all WORK required hereunder in accordance with the prevailing standard of care by exercising the skill and care normally required of individuals performing the same or similar WORK, under the same or similar circumstances, in the State of Nevada.

27. PROPER AUTHORITY:

The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. **CONTRACTOR** acknowledges that this Contract is effective only after approval by the Carson City Board of Supervisors and only for the period of time specified in this Contract. Any WORK performed by **CONTRACTOR** before this Contract is effective or after it ceases to be effective is performed at the sole risk of **CONTRACTOR**.

28. ALTERNATIVE DISPUTE RESOLUTION (Public Work):

If the WORK under this Contract involves a “public work” as defined under NRS 338.010(17), then pursuant to NRS 338.150, a public body charged with the drafting of specifications for a public work shall include in the specifications a clause requiring the use of a method of alternative dispute resolution (“ADR”) before initiation of a judicial action if a dispute arising between the public body and the **CONTRACTOR** engaged on the public work cannot otherwise be settled. Therefore, unless ADR is otherwise provided for by the parties in any other incorporated attachment to this Contract, in the event that a dispute arising between **CITY** and **CONTRACTOR** regarding that public work cannot otherwise be settled, **CITY** and **CONTRACTOR** agree that, before judicial action may be initiated, **CITY** and **CONTRACTOR** will submit the dispute to non-binding mediation. **CITY** shall present **CONTRACTOR** with a list of three potential mediators. **CONTRACTOR** shall select one person to serve as the mediator from the list of potential mediators presented by **CITY**. The person selected as mediator shall determine the rules governing the mediation.

29. GOVERNING LAW / JURISDICTION:

This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. **CONTRACTOR** consents and agrees to the jurisdiction of the courts of the State of Nevada located in Carson City, Nevada for enforcement of this Contract.

CONSTRUCTION INDEPENDENT CONTRACTOR AGREEMENT

Contract No: 1617-119

**Title: N. Nevada St. & N. Division St. Sewer & Water Main
Replacement**

30. ENTIRE CONTRACT AND MODIFICATION:

This Contract and its integrated attachment(s) constitute the entire Contract of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other Contracts that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Carson City Board of Supervisors. Conflicts in language between this Contract and any other agreement between **CITY** and **CONTRACTOR** on this same matter shall be construed consistent with the terms of this Contract. The parties agree that each has had their respective counsel review this Contract which shall be construed as if it was jointly drafted.

31. ACKNOWLEDGMENT AND EXECUTION:

This Contract may be executed in counterparts. The parties hereto have caused this Contract to be signed and intend to be legally bound thereby as follows:

CONSTRUCTION INDEPENDENT CONTRACTOR AGREEMENT

Contract No: 1617-119

Title: N. Nevada St. & N. Division St. Sewer & Water Main Replacement

AND ALL SUPPLEMENTAL AGREEMENTS AMENDING OR EXTENDING THE WORK CONTEMPLATED.

ACKNOWLEDGMENT AND EXECUTION:

In witness whereof, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

CITY

Chief Financial Officer
Attn: Laura Rader, Purchasing & Contracts Administrator
Purchasing and Contracts Department
201 North Carson Street, Suite 3
Carson City, Nevada 89701
Telephone: 775-283-7362
Fax: 775-887-2107
Lrader@carson.org

CITY'S LEGAL COUNSEL

Carson City District Attorney

I have reviewed this Contract and approve as to its legal form.

By: _____
Nancy Paulson, Chief Financial Officer

By: _____
Deputy District Attorney

Dated _____

Dated _____

CONTRACTOR will not be given authorization to begin work until this Contract has been signed by Purchasing and Contract

Account # 510-3205-434.70-40

By: _____

Dated: _____

CONSTRUCTION INDEPENDENT CONTRACTOR AGREEMENT

Contract No: 1617-119

Title: N. Nevada St. & N. Division St. Sewer & Water Main Replacement

Undersigned deposes and says under penalty of perjury: That he/she is **CONTRACTOR** or authorized agent of **CONTRACTOR**; that he/she has read the foregoing Contract; and that he/she understands the terms, conditions and requirements thereof.

CONTRACTOR

BY: Travis Peek

TITLE: President

FIRM: Peek Brothers Construction, Inc.

CARSON CITY BUSINESS LICENSE #: 17-031725

NEVADA CONTRACTORS LICENSE #: 0077037/0079201

Address: P.O. Box 2608

City: Fernley **State:** NV **Zip Code:** 89408

Telephone: 775-853-6472

E-mail Address: travis@peekbrothers.net

(Signature of Contractor)

DATED _____

STATE OF _____)

)**ss**

County of _____)

Signed and sworn (or affirmed before me on this _____ day of _____, 20__.

(Signature of Notary)

(Notary Stamp)

CONSTRUCTION INDEPENDENT CONTRACTOR AGREEMENT

Contract No: 1617-119

**Title: N. Nevada St. & N. Division St. Sewer & Water Main
Replacement**

CONTRACT ACCEPTANCE AND EXECUTION:

The Board of Supervisors for Carson City, Nevada at their publicly noticed meeting of April 20, 2017, approved the acceptance of the attached Contract hereinbefore identified as **CONTRACT No. 1617-119** and titled **N. Nevada St. & N. Division St. Sewer & Water Main Replacement**. Further, the Board of Supervisors authorizes the Mayor of Carson City, Nevada to set his hand to this document and record his signature for the execution of this Contract in accordance with the action taken.

CARSON CITY, NEVADA

ROBERT L. CROWELL, MAYOR

DATED this 20th day of April, 2017.

ATTEST:

SUSAN MERRIWETHER, CLERK-RECORDER

DATED this 20th day of April, 2017.

CONSTRUCTION INDEPENDENT CONTRACTOR AGREEMENT

Contract No: 1617-119

Title: N. Nevada St. & N. Division St. Sewer & Water Main Replacement

PERFORMANCE BOND

Doc. No. 2151
(Rev. 11-17-99)

KNOW ALL MEN BY THESE PRESENTS, that I/we _____ as Principal, hereinafter called CONTRACTOR, and

_____ a corporation duly organized under the laws of _____, as Surety, hereinafter called the Surety, are held and firmly bound unto Carson City, Nevada a consolidated municipality of the State of Nevada, hereinafter called CITY, for the sum of \$ _____ (state sum in Words) _____

_____ for the payment whereof CONTRACTOR and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, CONTRACTOR has by written agreement dated _____, entered into a contract with CITY for **BID # 1617-119** and titled **N. Nevada St. & N. Division St. Sewer & Water Main Replacement** in accordance with drawings and specifications prepared by CITY and which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if CONTRACTOR shall promptly and faithfully perform said Contract then this obligation shall be null and void; otherwise it shall remain in full force and effect. The Surety hereby waives notice of any alteration or extension of time made by CITY and its obligation is not affected by any such alteration or extension provided the same is within the scope of the Contract. Whenever CONTRACTOR shall be, and is declared by CITY to be in default under the Contract, CITY having performed CITY'S obligations thereunder, the Surety may promptly remedy the default or shall promptly:

- 1) Complete the Contract in accordance with its terms and conditions; or
- 2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by CITY and the Surety jointly of the lowest responsive, responsible bidder, arrange for a contract between such bidder and CITY, and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract price, but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract price", as used in this paragraph, shall mean the total amount payable by CITY to CONTRACTOR under the Contract and any amendments thereto, less the amount properly paid by CITY to CONTRACTOR. No right of action shall accrue on this bond to or for the use of any person or corporation other than CITY or successors of CITY.

PERFORMANCE BOND

Continued for **BID # 1617-119** and titled **N. Nevada St. & N. Division St. Sewer & Water Main Replacement**

BY:	(Signature of Principal) L.S.
TITLE:	
FIRM:	
Address:	
City, State, Zip:	
Phone:	

Printed Name of Principal:

Attest By: _____ **(Signature of Notary)**

Subscribed and Sworn before me this **day of** **,20_____**

**CLAIMS UNDER THIS BOND
MAY BE ADDRESSED TO:**

Name of Surety:	
Address:	
City:	
State/Zip Code:	
Name:	
Title:	
Telephone:	
Surety's Acknowledgment:	
By:	

NOTICE:

No substitution or revision to this bond form will be accepted. Sureties must be authorized to do business in and have an agent for service of process in the State of Nevada. Certified copy of Power of Attorney must be attached.

LABOR AND MATERIAL PAYMENT BOND

Doc. No. 2152
(Rev. 11-17-99)

KNOW ALL MEN BY THESE PRESENTS, that I/we _____
_____ as Principal, hereinafter called
CONTRACTOR, and _____ a
corporation duly organized under the laws of the State of Nevada, as Surety, hereinafter called the Surety, are
held and firmly bound unto Carson City, Nevada a consolidated municipality of the State of Nevada, hereinafter
called CITY, for the \$ _____ Dollars (state sum in words) _____
_____ for
the payment whereof CONTRACTOR and Surety bind themselves, their heirs, executors, administrators,
successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, CONTRACTOR has by written agreement dated _____ entered into a contract with
CITY for **BID #1617-119** and titled **N. Nevada St. & N. Division St. Sewer & Water Main Replacement** in
accordance with drawings and specifications prepared by CITY and which contract is by reference made a part
hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if
CONTRACTOR shall promptly make payment to all claimants as hereinafter defined, for all labor and material
used or reasonably required for use in the performance of the Contract, then this obligation shall be void;
otherwise it shall remain in full force and effect, subject, however, to the following conditions:

- 1) A claimant is defined as one having a direct contract with CONTRACTOR or with a Subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental of equipment directly applicable to the Contract.
- 2) The above-named Principal and Surety hereby jointly and severally agree with CITY that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. CITY shall not be liable for the payment of any costs or expenses of any such suit.
- 3) No suit or action shall be commenced hereunder by any claimant:
 - a) Unless claimant, other than one having a direct contract with CONTRACTOR, shall have given written notice to any two of the following: CONTRACTOR, CITY, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be personally served or served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal at any place the Principal maintains an office or conducts its business.
 - b) After the expiration of one (1) year following the date on which the last of the labor was performed or material was supplied by the party bringing suit.
 - c) Other than in a court of competent jurisdiction for the county or district in which the construction Contract was to be performed.

LABOR AND MATERIAL PAYMENT BOND

Continued for **BID #1617-119** and titled **N. Nevada St. & N. Division St. Sewer & Water Main Replacement**

- 4) The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

BY:	(signature of Principal) L.S.
TITLE:	
FIRM:	
Address:	
City, State, Zip:	
Phone:	
Printed Name of Principal:	
Attest by:	(signature of notary)
Subscribed and Sworn before me this day of , 20____	

**CLAIMS UNDER THIS BOND
MAY BE ADDRESSED TO:**

Name of Surety:	
Address:	
City:	
State/Zip Code:	
Name:	
Title:	
Telephone:	
Surety's Acknowledgment:	
By:	

NOTICE:

No substitution or revision to this bond form will be accepted. Sureties must be authorized to do business in and have an agent for service of process in the State of Nevada. Certified copy of Power of Attorney must be attached.

BID PROPOSAL

CITY OF CARSON CITY, NEVADA – BID BOND

KNOW ALL MEN BY THESE PRESENTS: That we the undersigned Peek Brothers Construction, as "Principal," and North America Specialty Insurance Company as "Surety," are hereby held and firmly bound unto the City of Carson City, Nevada, as "Obligee," in the penal sum of Five Percent of Total Bid dollars (\$ 5%) for the payment of which, well and truly to be made, the Principal and Surety bind themselves, their heirs, executors, and administrators, successors and assigns, jointly and severally, by this instrument. The condition of the obligation of this bid bond is as follows:

WHEREAS, NRS 332.105 authorizes local governments to require bid bonds to insure execution and proper performance of the Contract and the Bonding Company has an "A" or better rating with Moody's or A.M. Best and T-Listed with the U.S. Treasury Department;

AND, WHEREAS, the Principal has submitted a bid for Bid # 1617-119, PWP # CC-2017-131, for the Project Title: N. Nevada Street and N. Division Street Sewer and Water Main Replacement

NOW, THEREFORE,

- (a) If said Bid shall be rejected; or
- (b) If said Bid shall be accepted and the Principal shall execute and deliver the contract in the bid documents ("Contract") to Obligee in accordance with the terms of the bid documents, and give such bond or bonds as may be specified in the bid or contract documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or
- (c) If the Principal shall pay to the Obligee the full amount of the bid bond as a penalty irrespective of the Obligee's actual damages in the event of the failure of the Principal to enter into such Contract and give such bond or bonds,

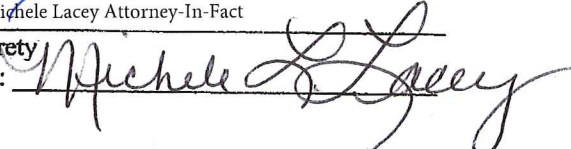
then, this obligation shall be null and void. Otherwise it shall remain in full force and effect, it being expressly understood and agreed that the liability of the Surety (but not of the Principal) for any and all claims hereunder shall, in no event, exceed the penal amount of the obligation as herein stated.

The Surety, for the consideration for which this bond was executed, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extension of the time within which the Obligee may accept such bid, and hereby waives notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and the Surety has caused their seal to be hereto affixed and these present to be signed by their proper officers.

Signed, Sealed and dated: March 24, 2017

Peek Brothers Construction
Principal
By: 

Michele Lacey Attorney-In-Fact
Surety
By: 

NAS SURETY GROUP

NORTH AMERICAN SPECIALTY INSURANCE COMPANY
WASHINGTON INTERNATIONAL INSURANCE COMPANY

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, THAT North American Specialty Insurance Company, a corporation duly organized and existing under laws of the State of New Hampshire, and having its principal office in the City of Manchester, New Hampshire, and Washington International Insurance Company, a corporation organized and existing under the laws of the State of New Hampshire and having its principal office in the City of Schaumburg, Illinois, each does hereby make, constitute and appoint:

ROBERT W. LAGLER,

MICHELE L. LACEY and DAWN L. COYER

JOINTLY OR SEVERALLY

Its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its act and deed, bonds or other writings obligatory in the nature of a bond on behalf of each of said Companies, as surety, on contracts of suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract or suretyship executed under this authority shall exceed the amount of:

FIFTY MILLION (\$50,000,000.00) DOLLARS

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of both North American Specialty Insurance Company and Washington International Insurance Company at meetings duly called and held on the 9th of May, 2012:

“RESOLVED, that any two of the Presidents, any Managing Director, any Senior Vice President, any Vice President, any Assistant Vice President, the Secretary or any Assistant Secretary be, and each or any of them hereby is authorized to execute a Power of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Company bonds, undertakings and all contracts of surety, and that each or any of them hereby is authorized to attest to the execution of any such Power of Attorney and to attach therein the seal of the Company; and it is

FURTHER RESOLVED, that the signature of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be binding upon the Company when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached.”



By [Signature]
Steven P. Anderson, Senior Vice President of Washington International Insurance Company
& Senior Vice President of North American Specialty Insurance Company



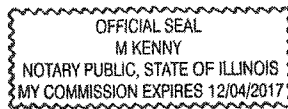
By [Signature]
Michael A. Ito, Senior Vice President of Washington International Insurance Company
& Senior Vice President of North American Specialty Insurance Company

IN WITNESS WHEREOF, North American Specialty Insurance Company and Washington International Insurance Company have caused their official seals to be hereunto affixed, and these presents to be signed by their authorized officers this 10th day of March, 2017.

**North American Specialty Insurance Company
Washington International Insurance Company**

State of Illinois
County of Cook ss:

On this 10th day of March, 2017, before me, a Notary Public personally appeared Steven P. Anderson, Senior Vice President of Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company and Michael A. Ito, Senior Vice President of Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company, personally known to me, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as officers of and acknowledged said instrument to be the voluntary act and deed of their respective companies.



[Signature]
M. Kenny, Notary Public

I, Jeffrey Goldberg, the duly elected Assistant Secretary of North American Specialty Insurance Company and Washington International Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney given by said North American Specialty Insurance Company and Washington International Insurance Company, which is still in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Companies this 21st day of March, 2017

[Signature]
Jeffrey Goldberg, Vice President & Assistant Secretary of
Washington International Insurance Company & North American Specialty Insurance Company

CARSON CITY PURCHASING AND CONTRACTS

201 North Carson Street, Suite 3

Carson City, NV 89701

775-283-7137/FAX 887-2107

<http://www.carson.org/index.aspx?page=998>

NOTICE TO CONTRACTORS

BID #1617-119

**N. Nevada Street and N. Division Street Sewer and Water Main
Replacement Project**

Addendum No. 1

Please make the following additions/changes/clarifications to the above referenced project:

1. The contractor is to use the bid proposal on the following page which is a replacement for the original bid proposal in the bid documents. The attached bid proposal section includes an additive alternate for a road bed modification as a substitute to the complete road reconstruction shown on the plans. Also included is a road bed modification technical specification and the revised special conditions which include a bid item description for the road bed modification.
2. The contractor is to pothole and verify pipe type and size at all locations where new manholes and mains connect to existing prior to the start of construction.

BID PROPOSAL

BID # 1617-119

BID TITLE: "N. Nevada St. & N. Division St. Sewer & Water Main Replacement Project"

NOTICE: No substitution or revision to this Bid Proposal form will be accepted. Carson City will reject any Bid that is received that has changes or alterations to this document. Although the Prevailing Wages are provided in this bid document, the bidder is responsible to verify with the Labor Commissioner if any addendums have been issued. The successful bidder will be required to provide the current Prevailing Wages used in preparation of their bid within 24 hours of bid submission.

PRICES will be valid for sixty (60) calendar days after the bid opening which is indicated in the Notice to Contractors.

A COPY OF CONTRACTOR'S "CERTIFICATE" of eligibility issued by the State of Nevada Contractors' Board as proof of Bidder's compliance with the provisions of N.R.S. 338.147 must be submitted with his/her bid for the preference to be considered. This Statute does not apply to projects expected to cost less than \$250,000.

COMPLETION of this project is expected **PURSUANT TO THE BID DOCUMENTS.**

BIDDER acknowledges receipt of 1 Addendums.

BP.1 SUMMARY

	Description	Scheduled Value	Unit	Unit Price	Total Price
	Schedule A:				
1	Mobilization, Demobilization and Clean-Up	1	LS	85,000.00	85,000.00
2	Traffic Control	1	LS	150,000.00	150,000.00
3	Surveying and Record Drawings	1	LS	26,000.00	26,000.00
4	Over Excavation of Unsuitable Materials	500	CY	92.50	46,250.00
5	Bypass Pumping	1	LS	9,000.00	9,000.00
6	Slurry Fill Existing 6" Sewer Main	545	LF	8.00	4,360.00
7	Slurry Fill Existing 8" Sewer Main	550	LF	9.50	5,225.00
8	Removal of Existing Manhole	16	EA	2450.00	39,200.00
9	4" SDR35 PVC Sewer Lateral	2,515	LF	104.00	261,560.00
10	8" SDR35 PVC Sewer Main	4,260	LF	73.00	310,980.00
11	48" Diameter Manhole	18	EA	4650.00	83,700.00
12	Core Drill and Modify Base of Existing Sewer Manhole	1	EA	1100.00	1,100.00
13	Remove Existing Gate Valve	5	EA	1050.00	5,250.00
14	Remove and Replace Existing Fire Hydrant Assembly	3	EA	8,600.00	25,800.00
15	8" C900 Water Main	540	LF	93.50	50,490.00
16	6" C900 Water Main	1,190	LF	71.50	85,085.00
17	8" Gate Valve	4	EA	3650.00	14,600.00
18	6" Gate Valve	4	EA	3300.00	13,200.00
19	Install New Ball Valve, Yoke, and Check Valve on Existing Service	47	EA	1960.00	92,120.00
20	Replace Existing Water Service Line with 1" PE Line	1,150	LF	69.50	79,925.00
21	Sawcut and Remove Bituminous Surface (for permanent patching)	22,450	SF	1.20	26,940.00
22	Permanent AC Pavement Patch (5" AC on 8" Agg Base) With Lime	22,450	SF	4.75	106,637.50
23	Remove and Off-Haul Existing Asphalt and Material to Accommodate New Pavement Section (full re-construct)	59,800	SF	1.22	72,956.00
24	8" of Type 2 Aggregate Base	59,800	SF	1.10	65,780.00

BID PROPOSAL

25	4" Plantmix Pavement Type 2 Agg., NV 64-28 w/ Lime	59,800	SF	2.35	140,530.00
26	Type 2 Slurry Seal	120,000	SF	.22¢	26,400.00
27	Adjust Existing Water Valve Can to Grade	2	EA	450.00	900.00
28	Painted Pavement Marking 24" Solid White Line (Crosswalk and Stop Bars)	800	LF	3.20	2560.00
29	Painted Pavement Marking Yield Bar	60	SF	7.80	468.00
30	Remove Existing PCC Flatwork (Sidewalks, Driveway Aprons, and Driveways)	4,050	SF	4.45	18,022.50
31	Remove Existing PCC Curb and Gutter	1,210	LF	5.00	6,050.00
32	Remove Existing PCC Retaining Curb	25	LF	5.00	125.00
33	Remove PCC Spandrel / Valley Gutter	140	SF	5.00	700.00
34	Type A PCC Sidewalk (4" concrete on 4" aggregate base)	3,200	SF	14.00	44,800.00
35	Type 1 PCC Curb and Gutter on 6" of Aggregate Base	1,100	LF	40.00	44,000.00
36	PCC Retaining Curb	6	LF	47.00	282.00
37	Residential PCC Driveway Apron (6" Conc. On 6" Base)	320	SF	18.00	5760.00
38	PCC Driveway (6" Conc. On 6" Base)	90	SF	21.00	1890.00
39	PCC Spandrel / Valley Gutter (6" Conc. On 6" Base) (including curb)	270	SF	21.00	5670.00
40	PCC Pedestrian Ramp with Detectable Warning Plate (4" Conc. On 4" Base)	730	SF	39.00	28,470.00
41	Removal and Restoration of Existing Site Improvements	1	LS	10,000.00	10,000.00
42	Reinstall Existing Traffic Sign	1	EA	350.00	350.00
BP.2.1 Total Base Bid Price (Schedule A)					1,998,136.00
Schedule B					
AA1	Price adjustment for road bed modification (see SC 3.44)	59,800	SF	1.70	101,660
BP.2.2 Total Price (Schedule A + Schedule B)					2,099,796.00

BP.3.1 Total Base Bid Price (Schedule (A)) Written in Words:

ONE MILLION NINE HUNDRED NINETY-EIGHT ONE HUNDRED THIRTY-SIX

BP.3.2 Total Price (Schedule (A) plus Schedule (B)) Written in Words:

TWO MILLION NINETY NINE THOUSAND SEVEN HUNDRED NINETY SIX

BP.4 BIDDER INFORMATION:

Company Name: Reek Brothers Construction, Inc.

Federal ID No.: 45-1721441

Mailing Address: P.O. Box 2608

City, State, Zip Code: Fernley NV. 89408

Complete Telephone Number: 775-835-6472

BID PROPOSAL

Complete Fax Number: 775-835-0893
Fax Number including area code: 775-835-0893
E-mail: travis@peekbrothers.net

Contact Person / Title: Travis Peek President
Mailing Address: P.O. Box 2608
City, State, Zip Code: Fernley W. 89408
Complete Telephone Number: 775-835-6472
Complete Fax Number: 775-835-0893
E-mail Address: travis@peekbrothers.net

BP.5 LICENSING INFORMATION:

Nevada State Contractor's License Number: 0077037 / 0079201
License Classification(s): Gen A and C-5
Limitation(s) of License: \$5,000,000.00
Date Issued: 5/31/2012 7/25/2014
Date of Expiration: 5/31/2018 7/31/2018
Name of Licensee: Travis and Jennifer Peek
Carson City Business License Number: 17-00031725
Date Issued: 12/23/16
Date of Expiration: 12/31/17
Name of Licensee: Travis and Jennifer Peek

BP.6 DISCLOSURE OF PRINCIPALS:

Individual and/or Partnership:

Owner 1) Name:
Address:
City, State, Zip Code:
Telephone Number:

BID PROPOSAL

Owner 2) Name:
Address:
City, State, Zip Code:
Telephone Number:
Other 1) Title:
Name
Other 2) Title:
Name:

Corporation: *Peek Brothers Construction Inc.*

State in which Company is Incorporated: <i>Nevada</i>
Date Incorporated: <i>5/2012</i>
Name of Corporation: <i>Peek Brothers Construction Inc.</i>
Mailing Address <i>P.O. Box 2608</i>
City, State, Zip Code: <i>Fernley NV. 89408</i>
Telephone Number: <i>775-835-6472</i>
President's Name: <i>Travis Peek</i>
Vice-President's Name:
Other 1) Name & Title: <i>Jennifer Peek Secy Treas.</i>

BP.7 MANAGEMENT AND SUPERVISORY PERSONNEL:

Persons and Positions	Years With Firm
Name 1) <i>John Janett</i>	<i>4</i>
Title 1) <i>Project Manager</i>	
Name 2) <i>Tray Peek</i>	<i>4</i>
Title 2) <i>Foreman</i>	

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Name 3)	Jerry Peck	5
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Title 3) Foreman

Name 4)	Danny Duckett	5
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Title 4) Foreman

Name 5)	Don Campbell	5
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Title 5) Safety manager

Name 6)		
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Title 6)

(If additional space is needed, attach a separate page)

BID PROPOSAL

BP.8 REFERENCES:

Instructions:

List at least three (3) contracts of a similar nature performed by your firm in the last three (3) years. If **NONE**, use your Company's letterhead (and submit with your bid proposal) to list what your qualifications are for this contract. Carson City reserves the right to contact and verify, with any and all references listed, the quality of and the degree of satisfaction for such performance.

Clients: (if additional space is needed attach a separate page)

Company Name 1): <u>TmWA</u>
Contract Person: <u>Jason Barnes</u>
Mailing Address: <u>P.O. Box 30013</u>
City, State, Zip Code: <u>Reno, NV. 89520</u>
Complete Telephone Number: <u>775-834-8080</u>
E-Mail Address: <u>jbarnes@tmwa.com</u>
Project Title: <u>16th and J. Street water main</u>
Amount of Contract: <u>\$226,000.00</u>
Scope of Work: <u>Installation of Approx. 1,150 LF of 6" diameter water main to replace existing 4" cast iron water mains.</u>
Company Name 2): <u>Eureka County School Dist.</u>
Contract Person: <u>Jason Beck</u>
Mailing Address: <u>5426 Longley Lane Ste B</u>
City, State, Zip Code: <u>Reno, NV. 89511</u>
Complete Telephone Number: <u>775-237-5373</u>
E-Mail Address: <u>jasonbeck@coeconstruction.com</u>
Project Title: <u>Eureka School Gymnasium Water Main</u>
Amount of Contract: <u>\$1,000,000.00</u>
Scope of Work: <u>Replace and install water main</u>

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Company Name 3):	ESI
Contract Person:	Aaron Baker
Mailing Address:	3330 E. Louise Dr. Ste 300
City, State, Zip Code:	Meridian, ID. 83642
Complete Telephone Number:	
E-Mail Address:	aaronbaker@esi-express.com
Project Title:	Maverick Gas Station
Amount of Contract:	\$1,024,000.00
Scope of Work:	Excavate, grade, utilities for new gas station
Company Name 4):	City of Reno
Contract Person:	Frank Peralta
Mailing Address:	P.O. Box 1900
City, State, Zip Code:	Reno, NV. 89502
Complete Telephone Number:	
E-Mail Address:	
Project Title:	Pat Baker Park
Amount of Contract:	\$755,000.00
Scope of Work:	Reconstruct city park

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BP. 9 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS PRIMARY COVERED TRANSACTIONS

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal, State or Local department or agency.
 - b) Have not within a three-year period preceding this bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
 - c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - d) Have not within a three-year period preceding this bid had one or more public transactions (Federal, State or Local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this bid.



 Signature of Authorized Certifying Official
 Travis Peek

 Printed Name

President

 Title
 3/27/17

 Date

I am unable to certify to the above statement. My explanation is attached.

Signature

Date

BIDDER'S SAFETY INFORMATION

Bidder's Safety Factors:

Year	"E-Mod" Factor ¹	OSHA Incident Rate ²
2015	97	0
2016	1.0	0

¹ E-Mod (Experience Modification) Factors are issued by the Employer's Insurance Company of Nevada.

² OSHA Incident Rate is the number of OSHA Recordable Accidents per 100 employees and is calculated as the number of accidents divided by 208,000.

BID PROPOSAL

SUBCONTRACTORS

BP.10 INSTRUCTIONS: for Subcontractors and **General Contractors who self-perform** in amounts **exceeding five (5) percent of bid amount**. This information must be submitted with your bid proposal. The bidder shall enter **NONE** under **Name of Subcontractor** if not utilizing subcontractors exceeding this amount and **per NRS 338.141 the prime contractor shall list itself on the subcontractor's list if it will be providing any of the work on the project.** (This form must be complete in all respects. If, additional space is needed, attach a separate page).

Name of Subcontractor <i>Peak Bros Const</i>	Address <i>P.O. Box 2608 Fernley NV. 89408</i>	
Phone <i>775-835-6472</i>	Nevada Contractor License # <i>0077037 10079201</i>	Limit of License <i>\$5,000,000.00</i>
Description of work <i>Excavating, Grading, Utilities</i>		
Name of Subcontractor <i>Pavement Recycling</i>	Address <i>2290 E. Main Street Woodland CA 95776</i>	
Phone <i>916-685-2204</i>	Nevada Contractor License # <i>0036228</i>	Limit of License <i>Unlimited</i>
Description of work <i>Pulverizing</i>		
Name of Subcontractor <i>Advanced Contract</i>	Address <i>P.O. Box 2002 Durkee, CA 96040</i>	
Phone <i>530-582-0800</i>	Nevada Contractor License # <i>0035835A</i>	Limit of License <i>\$5,000,000.00</i>
Description of work <i>Paving</i>		
Name of Subcontractor <i>Intermountain</i>	Address <i>1120 Terminal way Reno, NV 89502</i>	
Phone <i>775-358-1355</i>	Nevada Contractor License # <i>0023657</i>	Limit of License <i>Unlimited</i>
Description of work <i>Striping/signage</i>		
Name of Subcontractor <i>Batto Born</i>	Address <i>6000 Gleason way Sparks, NV. 89431</i>	
Phone <i>775-813-4934</i>	Nevada Contractor License # <i>N/A</i>	Limit of License <i>N/A</i>
Description of work <i>Surveying</i>		

BID PROPOSAL

SUBCONTRACTORS

BP.11 INSTRUCTIONS: for Subcontractors exceeding one (1) percent of bid amount or \$50,000 whichever is greater. This information must be submitted by the three lowest bidders within two (2) hours after the completion of the opening of the bids. The bidder may elect to submit this information with the bid proposal and, in that case, the bidder will be considered as having submitted this information within the above two hours.

Name of Subcontractor <i>Peak ProthesCond.</i>	Address <i>P.O. Box 21008 Fernley NV. 89408</i>	
Phone <i>775-835-6472</i>	Nevada Contractor License # <i>0077037 / 0079201</i>	Limit of License <i>\$ 5,000,000.00</i>
Description of work <i>Excavating, grading, Utilities</i>		
Name of Subcontractor <i>Pavement Recycling</i>	Address <i>2290 E. main St. Woodland, CA 95776</i>	
Phone <i>916-685-2204</i>	Nevada Contractor License # <i>0056228</i>	Limit of License <i>Unlimited</i>
Description of work <i>Pulverizing</i>		
<i>JG</i> Name of Subcontractor <i>Advanced Asphalt</i>	Address <i>P.O. Box 21002 Truckee CA 96160</i>	
Phone <i>530-582-0800</i>	Nevada Contractor License # <i>0035835A</i>	Limit of License <i>\$5,000,000.00</i>
Description of work <i>Paving</i>		
Name of Subcontractor <i>Intermountain</i>	Address <i>1120 Terminal Way Reno, NV. 89502</i>	
Phone <i>775-358-1355</i>	Nevada Contractor License # <i>0023657</i>	Limit of License <i>Unlimited</i>
Description of work <i>Striping and Signage</i>		
Name of Subcontractor <i>Battle Born</i>	Address <i>600 Gleason Way Sparks, NV. 89431</i>	
Phone <i>775-813-4934</i>	Nevada Contractor License # <i>N/A</i>	Limit of License <i>N/A</i>
Description of work <i>Surveying</i>		

BID PROPOSAL

SUBCONTRACTORS

BP. 12 INSTRUCTIONS: for all Subcontractors not previously listed on the 5% and 1% pages. This information must be submitted by the three lowest bidders within twenty four (24) hours after the completion of the opening of the bids. The bidder may elect to submit this information with the bid proposal and, in that case, the bidder will be considered as having submitted this information within the above twenty four hours.

Name of Subcontractor <i>Peak Pros Const.</i>	Address <i>P.O. Box 21008 Fenley W. 89408</i>	
Phone <i>775-835-4472</i>	Nevada Contractor License # <i>0077037 / 0079201</i>	Limit of License <i>\$ 5,000,000.00</i>
Description of work <i>Excavating, grading, Utilities</i>		
Name of Subcontractor <i>Pavement Recycling</i>	Address <i>2290 E. Main St. Woodland CA 95716</i>	
Phone <i>916-685-2204</i>	Nevada Contractor License # <i>0030228</i>	Limit of License <i>unlimited</i>
Description of work <i>Pulverizing</i>		
Name of Subcontractor <i>Advanced Asphalt</i>	Address <i>P.O. Box 2002 Truckee, CA 96160</i>	
Phone <i>530-582-0800</i>	Nevada Contractor License # <i>0035835A</i>	Limit of License <i>\$ 5,000,000.00</i>
Description of work <i>Paving</i>		
Name of Subcontractor <i>Centermountain</i>	Address <i>1120 Jerome Way Reno, W. 89502</i>	
Phone <i>775-358-1355</i>	Nevada Contractor License # <i>0023657</i>	Limit of License <i>Unlimited</i>
Description of work <i>Striping / Signage</i>		
Name of Subcontractor <i>Battle Born</i>	Address <i>1000 Mission Way Sparks, W. 89431</i>	
Phone <i>775-813-4934</i>	Nevada Contractor License # <i>N/A</i>	Limit of License <i>N/A</i>
Description of work <i>Surveying</i>		

BID PROPOSAL

BP. 13

WORKERS EMPLOYED REPORT INSTRUCTIONS FOR COMPLETION

Effective July 1, 2013, contractors who receive a preference in bidding on a public work must submit an affidavit to the public body certifying that 50 percent of all workers employed on the public work, including any employees of the contractor and of any subcontractor, will hold a valid driver's license or identification card issued by the Nevada Department of Motor Vehicles. Pursuant to NRS 338.070(5), a contractor and each subcontractor engaged on a public work shall keep an accurate record showing, for each worker employed by the contractor or subcontractor in connection with the public work who has a driver's license or identification card, the name of the worker, the driver's license number or identification card number of the worker, and the state or other jurisdiction that issued the license or card. A copy of this record must be received by the public body no later than 15 days after the end of the month. Additionally, the contractor and any subcontractor will maintain and make available for inspection within Nevada his or her records concerning payroll relating to the public work.

- EACH contractor and subcontractor must complete the Workers Employed Report.
- You may make additional copies of the report as necessary.
- A copy of this report must be submitted with the monthly certified payroll report.
- Submit Identification log monthly listing all employees that worked for that month. The Identification log should correspond with the certified payroll reports. If employees are not working in a given month then they should not be listed on said report.

This report is intended to serve as a cumulative list of all workers employed by the contractor and subcontractor over the duration of the project to verify compliance with the minimum requirements of the affidavit.

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WORKERS EMPLOYED REPORT

Project Name: _____ Contract Number : _____

General Contractor: _____ PWP # _____

Subcontractor: _____ Date: _____

Address at which payroll records are maintained:

Contact Person and Phone Number: _____

Employee Name	Driver License Number or ID Card Number	Issuing State or Jurisdiction

BID PROPOSAL

Local Preference Affidavit

(This form is required to receive a preference in bidding)

I, _____, on behalf of the Contractor, _____, swear and affirm that in order to be in compliance with NRS 338.XXX* and be eligible to receive a preference in bidding on Project No. _____, Project Name _____, certify that the following requirement will be adhered to, documented and attained on completion of the contract. Upon submission of this affidavit on behalf of _____, I recognize and accept that failure to comply with any requirements is a material breach of the contract and entitles the City to damages. In addition, the Contractor may lose their preference designation and/or lose their ability to bid on public works for one year, pursuant to NRS 338. XXX*:

1. The Contractor shall ensure that 50 percent of the workers employed on the job possess a Nevada driver's license or identification card;
2. The Contractor shall ensure all vehicles used primarily for the public work will be registered and (where applicable) partially apportioned to Nevada;
3. The Contractor shall ensure at least 50 percent of the design professionals who work on the project (including sub-contractors) have a Nevada driver's license or identification card.
4. The Contractor shall ensure payroll records related to this project are maintained and available within the State of Nevada.

***Note that specific sections of NRS 338 detailing the continued procedures associated with the use of the "bidder's preference" have been amended by the passage of Assembly Bill 172 effective 7/1/13, requiring this affidavit and subsequent record keeping and reporting by the General Contractor using the preference program and awarded this project . These requirements are not applicable to Contractors who do not use the "Bidder's Preference" eligibility certificate in their bid.**

By: _____ Title: _____

Signature: _____ Date: _____

Signed and sworn to (or affirmed) before me on this _____ day of _____, 20_____,
by _____ (name of person making statement).

State of _____)
)ss.

County of _____)

Notary Signature STAMP AND SEAL

