

## CONTRACT AWARD INSTRUCTIONS

### CI.1 METHOD OF AWARD

The Bid will be awarded to the lowest responsive and responsible Bidder based on the lowest Base Bid and the lowest additive alternate bid, including construction conflicts and adjusted for Nevada State Bidder's Preference, if applicable. Bidder must bid all items to be responsive and considered for award.

### CI.2 TIME OF AWARD

The award, if made, will be within ninety (90) calendar days after the opening of Bids. The City reserves the right to accept or reject any or all Bids received.

#### A. Documents

Six (6) sets of the Contract Documents and Specifications will be provided to the Contractor without charges upon award of the Contract.

### CI.3 BONDS

#### A. Bonds

The Contractor shall furnish bonds covering the faithful performance of the Contract, payment of all obligations arising thereunder and a guaranty bond to take effect upon completion of the Project, in such forms and amounts as the City may prescribe. Bonds may be secured through the Contractor's usual sources provided that the surety is authorized and licensed to do business in the State of Nevada, with the exception of individual surety bonds which are not acceptable to the City.

Prior to execution of Contract, and not later than fifteen (15) calendar days after receipt of a Notice of Award, the successful Bidder shall furnish Contract bonds, insurance forms, and other forms as required to the City Clerk with copies to the Construction Manager as follows:

Labor and Material Payment Bond in the amount of one hundred percent (100%) of the Contract Price.

Performance Bond in the amount of one hundred percent (100%) of the Contract Price.

Guarantee Bond in the amount of one hundred percent (100%) of the Contract Price. The Guarantee Bond will go into effect when the Project is accepted by the City Council.

#### B. Bond Forms

The referenced bonds shall be written on the Performance Bond, Labor and Material Bond, Guarantee Bond forms provided by the City, as shown in the following Contract award forms.

The Bidder shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of his power of attorney.

Any Labor and Material Payment Bond, Performance Bond or Guarantee Bond prepared by a licensed non-resident agent must be countersigned by a resident agent in accordance with the provisions of NRS 680A.300.

The referenced Bonds must be issued by a certified surety listed in the Department of the Treasury, Fiscal Service (Department Circular 570, Current Revision); companies holding certificates of authority as acceptable sureties on federal bonds and as acceptable reinsuring companies.

#### **CI.4 INSURANCE**

##### **A. General**

If the Contractor fails to maintain any of the insurance coverages required herein, then the City will have the option to declare the Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order that the required coverages may be maintained. The Contractor is responsible for any expenses paid by the City to maintain such insurance and the City may collect the same from the Contractor or deduct the amount paid from any sums due the Contractor under the Contract.

The insurance requirements specified herein do not relieve the Contractor of his responsibility or limit the amount of his liability to the City or other persons, and the Contractor is encouraged to purchase such additional insurance as he deems necessary.

Contractor is responsible for and must remedy all damage or loss to any property, including property of City, caused in whole or in part by the Contractor, any subcontractor or anyone employed, directed or supervised by Contractor. The Contractor is responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work.

##### **B. Worker's Compensation Insurance (Mandatory)**

Contractor agrees, as precondition to the performance of any work under this Contract, to secure and maintain in full force and effect, during the term of this Contract, Worker's Compensation Insurance. Contractor further agrees to provide the City with a work certificate and/or a certificate issued by the State Industrial Insurance System (SIIS) in accordance with the NRS 616.280.

If Contractor does not maintain coverage throughout the entire term of the Contract, Contractor agrees that City may, at any time the coverage is not maintained by Contractor, order the Contractor to stop work, assess penalty as defined herein, suspend the Contract, or terminate the Contract. For each six month period this Contract is in effect, Contractor agrees, prior to the expiration of the six month period, to provide another written request to SIIS for the provisions of a certificate and notice of lapse in or nonpayment of coverage. If Contractor does not make the request or does not provide the certificate before the expiration of the six-month period, Contractor agrees that City may order the Contractor to stop work, suspend the Contract, or terminate the Contract.

##### **C. Contractor's Liability Insurance (Mandatory)**

After award of Contract, the Contractor shall promptly obtain, at its own expense, all the insurance required as stated herein, and shall submit coverage verification within 15 days for review and approval by the City prior to Contractor's execution of the Contract.

The Notice to Proceed with the Work under this Contract will not be issued, and the Contractor shall not commence work, until such insurance has been approved by the City. The Contractor shall not allow any subcontractors to commence work on its subcontract until all similar insurance required of the subcontractor has been obtained and verified by Contractor. Such insurance shall remain in full force and effect at all times during the execution of the Work and until the final completion and acceptance thereof and at all times thereafter as dictated in this Contract.

The Contractor further agrees to furnish certificates of insurance as indicated below. The certificates for each insurance policy are to be signed by a person authorized by that insurer and licensed by the State of Nevada.

Each insurance company's rating as shown in the latest Best's Key Rating Guide shall be fully disclosed and entered on the required certificate of insurance. The adequacy of the insurance supplied by the Contractor, including the rating and financial health of each insurance company providing coverage, is subject to the approval of the City. City requires insurance carriers to maintain a Best's Key rating of A, Class VII or higher.

The Contractor shall furnish renewal certificates for the required insurance during the period of coverage required by the Contract. Contractor will furnish renewal certificates for the same minimum coverages as required by the Contract. If the renewal certificates are not provided the City may declare the Contractor in default of its obligation under this paragraph.

The City, its officers, employees, and volunteers must be expressly covered with respect to liability arising out of the activities by or on behalf of the named insured in connection with this Contract.

The Contractor's insurance shall be primary as respects City, its officers, employees and volunteers. Any other coverage (insurance or otherwise) available to City, its officers, employees and volunteers shall be excess over the insurance required of the Contractor and shall not contribute with it.

Each insurance policy supplied by the Contractor must be endorsed to provide that the coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail "return receipt requested" has been given to the City. This notice requirement does not waive the insurance requirements contained herein.

All deductibles and self-insured retentions shall be fully disclosed in the Certificate of Insurance. No deductible or self-insured retention may exceed Five Thousand Dollars (\$5,000); however, with evidence of financial worth, this may be amended by the City.

If aggregate limits are imposed on the insurance coverage, then the amount of such limits must not be less than One Million Dollars (\$1,000,000) per occurrence or per accident or One Million Dollars (\$1,000,000) aggregate. All aggregates must be fully disclosed and the amount entered on the required certificate of insurance. Contractor's insurer must notify the City of any erosion of the aggregate limits. The "per occurrence" limits of insurance required herein must be maintained in full, irrespective of any erosion of aggregate.

The Contractor shall obtain and maintain, for the duration of the Contract or longer period if specified herein, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work hereunder by the

Contractor, its agents, representatives, employees or subcontractors of any tier. The cost of such insurance shall be included in Contractor's Bid.

The Contractor is required to obtain and maintain the following coverages:

General Liability - General Liability coverage shall be on "occurrence" basis only and not "claims made". The coverage must be provided either on an ISO Commercial General Liability form or an ISO Broad Form Comprehensive General Liability form. Any exceptions to coverages must be fully disclosed on the required certificates. If other than these forms are submitted as evidence of compliance, complete originals of such policy forms must be submitted to City within fifteen (15) days after Notice of Award. Policies must include, but need not be limited to, coverages for bodily injury, property damage, personal injury, broad form property damage, premises and operations, severability of interest, products and completed operations, contractual and independent contractors. Contractor shall maintain limits of no less than One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury (including death), personal injury and property damages.

Auto Liability - Auto Liability must provide coverage for claims for damage because of bodily injury or death of any person, or property damage arising out of the ownership, maintenance or use of any motor vehicles whether owned, hired or non-owned. Contractor shall maintain limits of no less than One Million Dollars (\$1,000,000) combined single limit "per accident" for bodily injury and property damage. Deductible shall not exceed Five Thousand Dollars (\$5,000.00).

Installation Floater - Contractor shall provide an installation floater insuring property of the City including machinery and equipment that the Contractor has agreed to install. The insured amount must equal the full replacement value of such property.

Explosion, Collapse, and Underground - Contractor shall provide insurance coverage for explosion, collapse and underground hazards with limits of no less than One Million Dollars (\$1,000,000) combined single limit "per accident" for bodily injury and property damage.

The Contractor will pay all premiums and costs of insurance.

Regardless of the coverage provided by any insurance policy, the Contractor shall indemnify, defend and hold City, its officers, employees and volunteers, harmless from any and all claims, demands, actions, attorney's fees, costs and expenses based upon or arising out of any acts, errors, omissions, fault or negligence of Contractor or its principals, employees, subcontractors or other agents while performing services under this Contract. Contractor shall indemnify, defend and hold harmless the City, its officers, employees and volunteers, for any attorney's fees or other costs of defense, even if the allegations of the claim are groundless, false or fraudulent.

**TABLE FOR INSURANCE AMOUNTS**

<u>GENERAL LIABILITY</u>	<u>PER OCCURRENCE</u>	<u>AGGREGATE</u>
COMMERCIAL GENERAL LIABILITY	\$1,000,000	\$1,000,000
BODILY INJURY & PROPERTY DAMAGE COMBINED	\$1,000,000	
PRODUCTS & COMPLETED OPERATION	\$1,000,000	
INDEPENDENT CONTRACTORS	\$1,000,000	
BLANKET CONTRACTORS	\$1,000,000	

\*DEDUCTIBLE SHALL NOT EXCEED FIVE THOUSAND DOLLARS (\$5,000).

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AUTOMOBILE LIABILITY

COMPREHENSIVE	\$1,000,000
BODILY INJURY & PROPERTY DAMAGE COMBINED	
OWNED	
HIRED	
NON-OWNED	

\*DEDUCTIBLE SHALL NOT EXCEED FIVE THOUSAND DOLLARS (\$5,000).

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NOTE: The City of North Las Vegas shall be named as Certificate Holder and shall be named as additionally insured as it pertains to this Project only and such notation shall appear on the Certificate of Insurance furnished by the successful Bidder's surety company.

In addition, the City will require of the surety company to give thirty (30) calendar days written notice to the City of any proposed cancellation of the coverages above, and any exclusions to the effect that the surety company will "endeavor to inform" must be stricken from the Certificate of Insurance.

**D. Builder's Risk Insurance Mandatory**

Standard Coverage - The Contractor shall cause to be taken out, and maintain in the name of the City and the Contractor until final completion and acceptance of the Project, Special Form (Course of Construction) Builder's Risk Insurance including but not limited to coverage against loss of damage to the Project by fire, lightning, wind, hail, aircraft, riot, vehicle damage, explosion, smoke, falling objects, vandalism, malicious mischief, collapse, and other such hazards as are normally covered by such coverage. Such insurance shall be in an amount equal to the replacement cost (without deduction for depreciation and subject to stipulated value in lieu of average clause) of all construction constituting any part of the Work, including the cost of excavations, of grading and filling of the land, and except that such insurance may be subject to deductible clauses not to exceed \$10,000 for any one loss. Such insurance will not cover loss or damage to the Contractor's equipment, scaffolding or other materials not to be consumed in the construction of the Project.

**E. Flood Insurance Mandatory**

At the Contractor's option, the Contractor shall provide Flood Insurance for the Project which shall be maintained in the name of the City until final completion and acceptance of the Project. Such insurance shall be in an amount equal to the replacement cost (without deduction for depreciation and subject to stipulated value in lieu of average clause) of all construction constituting any part of the Work, including the cost of excavations, of grading and filling of the land, and except that such insurance may be subject to deductible clauses not to exceed \$10,000 for any one loss. Such insurance will not cover loss or damage to the Contractor's equipment, scaffolding or other materials not to be consumed in the construction of the Project.

**F. Subrogation**

The City and Contractor hereby waive their rights of subrogation against each other. The Contractor shall obtain from the insurer a recognition that a waiver of subrogation endorsement for losses caused by fire or other perils to the extent covered by this insurance is provided. Contractor shall pay any extra premium required therefore.

**G. Endorsements**

All of the following endorsements are required to be made a part of the policies described in this Section hereof:

- a. "The City and City's employees, officers, Design Consultants, elected officials, Program Manager, Construction Manager, agents, and sub-consultants are hereby added as additional insured's insofar as Work done under this Contract is concerned."
- b. "This policy shall be considered primary insurance as respects any other valid and collectible insurance, including self-insured retention, the City may possess, and any other insurance the City does possess shall be considered excess insurance only."
- c. "This insurance shall act for each insured, and additional insured, as though a separate policy had been written for each. This, however, will not act to increase the limit of liability of the insuring company."

- d. "Thirty (30) days prior written notice of cancellation shall be given to the City. Such notice shall be sent to the designated Construction Manager."

**H. Change in Terms**

The Contractor shall provide immediate written notice to the City of any change in terms and conditions and/or reduction in the coverage of any nature to the insurance policies. The notice shall be sent to the location identified in Paragraph IB.1.E.2.

The Contractor shall be obligated to pay any extra premium for maintaining the insurance requirements specified herein.

**I. Occupancy**

The City reserves the right to occupy existing facilities under construction or to use or occupy parts of the Work. Insurance policies shall not restrict or limit such use.

**CI.5 INDEMNIFICATION**

The Contractor shall protect, indemnify and hold the City and its officers, agents, employees, and volunteers and other retained consultants, harmless from and against any and all claims, damages, losses, suits, actions, decrees, judgments, attorney's fees, court costs and other expenses of any kind or character which the City, its officers, employees, agents, consulting engineers or other retained consultants may suffer, or which may be sought against, recovered from or obtainable against the City, its officers, employees, agents, consulting engineers or other retained consultants, as a result of, or by reason of, or arising out of, or on account of, or in consequence of (I) the operations of the Contractor, its subcontractors or agents, or anyone directly or indirectly employed by any subcontractor or agent, in the fulfillment or performance of the terms, conditions or covenants of this agreement, regardless of whether or not the occurrence which gave rise to such claim, damage, loss, suit, action, judgment or expense was caused, in part, by the party indemnified hereunder; or (ii) as a result of, or by reason, or arising out of, or on account of, or in consequence of, any neglect in safeguarding the Work; or (iii) through the use of unacceptable materials in constructing the Work; or (iv) because of any claim or amount recovered under the "Nevada Industrial Insurance Act," or any other law, ordinance, order or decree. Any money due the Contractor under and by virtue of this Agreement which is considered necessary by the City for such purpose, may be retained by the City for its protection; or in case no money is due, its surety may be held until all such claims, damages, losses, suits, actions, decrees, judgments, attorney's fees and court costs and other expenses of any kind or character as aforesaid shall have been settled and suitable evidence to that effect furnished to the City; provided, however, that money due the Contractor will not be withheld when the Contractor produces satisfactory evidence that it is adequately protected by public liability and property damage insurance as required by CONTRACTOR'S "LIABILITY INSURANCE."

In this connection, it is expressly agreed that the Contractor shall, at its own expense, defend the City, its officers, employees, agents, consulting engineers and other retained consultants, against any and all claims, suits or actions which may be brought against them, or any of them, as a result of, or by reason of, or arising out of, or on account of, or in consequence of any act or omission against which the Contractor has indemnified the City. If the Contractor shall fail to do so, the City shall have the right, but not the obligation, to defend the same and to charge all direct and incidental costs of such defense to the Contractor, including attorney's fees and court costs.

Reimbursement to the Contractor by the City of North Las Vegas, in whole or in part, for the costs of protecting traffic shall not serve to relieve the Contractor of its responsibility as set forth in these Standard Specifications.

The Contractor guarantees the payment of all just claims for materials, supplies and labor, and all other just claims against it or any subcontractor, made in connection with this Agreement.

**A. ADDITIONAL INSUREDS**

In addition to the limitations set forth above, the Contractor shall indemnify, defend, and hold harmless the PROGRAM MANAGER, CONSTRUCTION MANAGER, DESIGN CONSULTANT, and all owner(s) of property where work will be performed from and against any and all actions, damages, fines, suits, and losses arising from the Contractor's failure to meet all safety requirements and/or provide a safe work site.

**CI.6 PENALTY FOR COLLUSION**

If, at any time, it is found that the person, firm, or corporation to whom the Contract has been awarded has, in presenting any bid or bids, colluded with any other party or parties, then the Contract shall be null and void, and the Contractor and its sureties shall be liable for loss or damage which the City may suffer thereby, and the City may advertise for new bids for said Work.

**CI.7 SUCCESSORS AND ASSIGNS**

The City and the Contractor, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the other party hereto and to the partners, successors, assigns, and legal representatives of such other party with respect to all covenants, agreements, and obligation contained in the Contract Documents. Neither party to the Contract shall assign the Contract or sublet it as a whole without the written consent of the other.

**CI.8 RIGHTS AND REMEDIES**

The duties and obligations imposed by the Contract Documents and the rights and remedies available there under shall be in addition to, and not a limitation of, any duties, obligations, rights, and remedies otherwise imposed or available by law.

No action or failure to act by the City, the Program Manager, the Design Consultant, or the Construction Manager shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

**CI.9 COPELAND ANTI-KICKBACK LAW**

The Contractor shall comply with the Copeland Anti-Kickback Act (19 U.S.C. 874) as supplemented in the Department of Labor Regulations (29 CFR Part 3). This act provides that each Contractor or subcontractor shall be prohibited from inducing by any means, any person employed in the construction, completion or repair of public work, to give up any part of the compensation to which he is otherwise entitled.

**CI.10 PATENT INDEMNITY**

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

### **CI.11 PROHIBITED INTERESTS**

No official of the City, who is authorized in such capacity and on behalf of the City to negotiate, make, accept or approve, or take part in negotiating, making, accepting, or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the Project, shall become directly or indirectly interested personally in this Contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of or for the City who is authorized in such capacity and on behalf of the City to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the Project, shall become directly or indirectly interested personally in this Contract or in any part hereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the Project.

### **CI.12 NOTICE TO PROCEED**

Notice to Proceed for Work - After receipt of all required post-bid information, the Construction Manager will issue the Notice to Proceed. The Notice to Proceed will be issued within ten (10) calendar days of receipt of approved bonds, insurance certificates and Contract signed by Contractor. A Conditional Notice to Proceed for such items as permits, shop drawings, and the ordering of materials (subject to approval of the shop drawings), may be issued by the Project Manager immediately following Award of this Contract by the City Council. However, no field work, including potholing, will be authorized.

### **CI.13 TIME: COMPLETION OF PROJECT**

#### **A. Time**

The successful Bidder, upon becoming the Contractor after having entered into a Contract with the City, shall commence the Work to be performed under the Contract on the date set by the City in the written Notice-to-Proceed, continuing the Work in accordance with the approved schedule and shall complete the entire Work within one hundred and eighty(180) calendar days after the effective date of the Notice-to-Proceed. Further, separable portions of the Work may be subject to intermediate, or substantial completion and/or specific dates as established in the Special Conditions.

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

#### **B. Liquidated Damages**

In case of failure on the part of the Contractor to complete the Work within the time(s) specified in the Contract, or within such additional time(s) as may be granted by formal action of the City Council or the Contractor fails to prosecute the Work, or any separable part thereof, with such diligence as will insure its completion within the time(s) specified in the Contract or any extensions thereof, the Contractor shall pay to the City, as liquidated damages, the sum of five hundred dollars (\$500) for each calendar day for delay until such reasonable time as may be required for construction completion of the Work, together with any increased costs incurred by the City in completing the Work.

Time stated for completion shall include the resolution of all punch list items, final cleanup and demobilization.

The signing of the proposal by the Bidder shall be prima facie evidence that the Bidder agrees that the amount of penalty is fair and reasonable.

**CI.14 LIQUIDATED DAMAGES FOR LATE CONTRACT DOCUMENTS**

The Contractor shall provide all contract documents requested in this section within fifteen (15) calendar days of Notice-of-Award. If the Contractor does not provide the documents on or before the fifteenth (15th) calendar day, he will pay over to the City the amount of Two Hundred Dollars (\$200) per day as liquidated damages. If the Contractor does not keep the bonds or insurance policies in effect or allows them to lapse, the Contractor will pay to the City the amount of Two Hundred Dollars (\$200) per day as liquidated damages, and will be in breach of Contract.

**CI.15 LIQUIDATED DAMAGES FOR LATE SUBMITTALS**

The Contractor shall provide all submittals requested in the General Conditions, Section 4.0 within thirty (30) calendar days of Notice-to-Proceed. If the Contractor does not provide the submittals on or before thirty (30) calendar days, he will pay over to the City the amount of Two Hundred Dollars (\$200) per day as liquidated damages.

**END OF CONTRACT AWARD**