



CITY OF ELKO

HOSPITAL SECOND SOURCE WATER LINE AND PRV PROJECT

PWP-EL-2022-450

December 2022

Prepared for:

City of Elko
1751 College Avenue

Elko, NV 89801

CONSISTS OF:

FEDERAL PROJECT BIDDING
REQUIREMENTS

PROPOSAL FORMS

CONDITIONS OF THE CONTRACT

TECHNICAL SPECIFICATIONS

FARR WEST

ENGINEERING

A DOWL, LLC COMPANY

Bid Set No. _____



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1.0 INVITATION TO BID

Sealed bid proposals will be accepted until **2:00 P.M. Local Time, on Thursday, December 29, 2022 at the office of the Elko City Clerk; 1751 College Avenue; Elko, Nevada 89801**, for the following:

CITY OF ELKO

HOSPITAL SECOND SOURCE WATER LINE AND PRV PROJECT

Bid proposals received by the City Clerk after the above-stated time will not be accepted. **Bidders mailing their bids assume the risk of late delivery.**

Bidding documents, plans, specifications and contract documents can be obtained free of charge electronically from the City of Elko's website at the following web address:

https://www.elkocity.com/government/bidding_opportunities/index.php. All bidders shall be registered with the Elko City Clerk's Office on the official plan holder's list for this project prior to submitting bids for this project. All bidders shall attend the mandatory Pre-Bid Conference for the Project at the time and location stated below to be eligible to submit a construction bid.

Bid proposals must be submitted on the prescribed forms and accompanied by security in the amount, form and subject to the conditions listed in the Instructions to Bidders. Bid proposals will be opened at City Hall immediately after the above deadline, with the bid amounts submitted being read aloud by City Staff to the interested parties present, if any. All interested parties are invited to be in attendance at the bid opening. Contractors will be required to have a current Elko City business license prior to time of contract execution; moreover, a current Nevada State contractor's license of the proper classification to perform the project work is required at the time of the Project bid opening.

All bids must be submitted in a sealed envelope that is legibly marked "**CITY OF ELKO HOSPITAL SECOND SOURCE WATER LINE AND PRV PROJECT**". City staff shall thoroughly review all bid proposals for conformance with the contract documents prior to making a written recommendation for award to the Elko City Council.

The award will be made to the lowest responsive and responsible bidder to the extent and in the manner required by law, unless all bids are rejected. The lowest responsive and responsible bidder shall be determined on the basis of price, conformance to plans and/or specifications, the bidder's qualifications, conformance to applicable sections of NRS Chapter 338, conformance to other bidding documents (including, without limitation, requirements set forth in the proposed



public works contract), and the best interest of the public.

The mandatory Pre-Bid Conference will be held at City of Elko Water and Sewer Shop (1550 STP. Rd., Elko, Nevada), on Wednesday, December 7, 2022, at 2:00 P.M., Local Time.

The City Council may formally award the contract to the successful bidder at its regularly scheduled meeting at City Hall on **January 10, 2023, after 4:00 P.M., Local Time.** The City Council may, in its sole discretion, reject all bids.

LABOR COMMISSIONER: The Nevada Labor Commissioner's identifying project number is **PWP-EL-2022-450** for this project. NRS 338.013(1) requires the Labor Commissioner's identifying number to be included in any bid or other document submitted in response to the advertisement or other type of solicitation.

The City of Elko reserves the right to accept or reject any and/or all items specified in the bid proposal and further reserves the right to waive any minor irregularities in the bid proposal, so long as the waiver does not give the bidder a competitive advantage over other bidders.

Dated this ___ day of _____ 20_____.

City of Elko
Elko City Council

BY: _____

Dale Johnson
City of Elko, Utilities Director

Publish: Elko Daily Free Press – November 29, 2022



2.0 INSTRUCTIONS TO BIDDERS

Bids are requested for a general construction contract, or work described in general, as follows:

- 1) **The City of Elko (City) will receive sealed bids from Bidders until 2:00 P.M; Local Time, on Thursday, December 29, 2022.** Bids received after this time will not be opened or accepted by the City of Elko and will be returned unopened.

- 2) **The site visit and mandatory Pre-Bid Conference will be held at the City of Elko Water Shop Elko City Hall (1550 STP Rd., Elko, Nevada), on Wednesday, December 7, 2020, at 2:00 P.M. Local Time.** The City or an authorized representative will transmit to all prospective Bidders of record such Addenda as the City or its authorized representative in his discretion considers necessary in response to questions arising at the Pre-bid Conference. Oral statements by City representatives may not be relied upon and will not be binding upon the City. Minutes of the Pre-bid Conference issued by the City or authorized representative, if any, and Addenda issued as a result of the Pre-bid Conference, if any, shall constitute the sole and exclusive record and statement of the results of the Pre-bid Conference.

- 3) The apparent Low Bid will be based solely on the total amount of all bid items and any additive or deductive alternates selected for award by the City. All Bidders are required to submit Bids on all bid items, including all additive and deductive alternates. Additive and deductive alternates will be awarded at the sole discretion of the City. If Alternate Bids are requested on this Project, the following applies: The priority of Alternate Bids will be announced by the City prior to the opening of bids. The City reserves the right to reject all Base Bids and all Alternate Bids. If the City elects not to reject all Bids, it will, prior to the award, first determine which one or more Alternates to accept; then the City will evaluate the lowest responsive and responsible Bidder based upon the Base Bid combined with any Alternates selected. If any Alternates are selected, the fact that a Bidder may have a lower individual Base or Alternate Bid than the individual Bids of the apparent lowest responsive and responsible Bidder is irrelevant, since the successful Bidder will be chosen on the basis of the sum of the Base Bid and the Alternates selected, together with the other relevant factors pursuant to NRS Chapter 338.



- 4) Bidders must submit bids on the Bid Form supplied by the City, fully completed with all blanks filled in, and signed by an authorized representative of the Bidder. Bids not submitted on the required form, and/or not fully completed and/or not signed by

an authorized representative of the Bidder, shall be deemed nonresponsive and shall not be considered, subject to the right of the City to waive minor technical defects that do not give the Bidder an advantage over other Bidders, at its sole discretion.

- 5) The Nevada Labor Commissioner's identifying number for this project is **PWP-EL-2022-450**. NRS 338.013(1) requires that the project identifying number must be included in any bid or other document submitted in response to the advertisement or other type of solicitation.

- 6) All Bidders must submit a Bid Bond in the form of a cashier's check, a certified check, or a corporate surety bond of not less than ten percent (10.0 %) of the amount of the bid, including additive and/or deductive alternates, payable to "The City of Elko," with their Bids. The Bid Bond will be forfeited to the City should the bidder to whom the contract is awarded fail to enter into the Contract in accordance with its Bid and the Contract Documents, and/or fail to furnish any other required bonds or certificates of insurance. The Bid Bond is a penalty, as opposed to liquidated damages, and the Bidder will be liable for all damages in excess of the Bid Bond. The Bid Bond will be returned upon signing of the Contract. The Bidder must use the form of Bid Bond required by the City. A Bid submitted without a Bid Bond that complies with all applicable City requirements will be deemed nonresponsive and not considered.

- 7) NRS 338.141 provides:

- 1) Except as otherwise provided in subsection (2) next below, each bid submitted must include:
- (a) If the City provides a list of the labor or portions of the public work which are estimated by the City to exceed 3 percent of the estimated cost of the public work, the name of each first tier subcontractor who will provide such labor or portion of the work on the public work which is estimated to exceed 3 percent of the estimated cost of the public work; or
 - (b) If the City does not provide a list of the labor or portions of the public work which are estimated by the City to exceed 3 percent of the estimated cost of the public work, the name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for



which the first tier subcontractor will be paid an amount exceeding 5 percent of the prime contractor's total bid. If the bid is submitted pursuant to this paragraph, within 2 hours after the completion of the opening of the bids, the contractors who submitted the three lowest bids must submit a list containing:

- (1) The name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid an amount exceeding \$250,000.
- (2) If any one of the contractors who submitted one of the three lowest bids will employ a first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will not be paid an amount exceeding \$250,000, the name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid 1 percent of the prime contractor's total bid or \$50,000, whichever is greater.
- (3) For each first-tier subcontractor whose name is listed pursuant to subparagraph (7)(1)(b)(1) or (7)(1)(b)(2) above, the number of the license issued to the first-tier subcontractor pursuant to chapter 624 of NRS.

Forms for the Subcontractors List are provided for Bidder's use, to include a 5% List and a 1% List.

- (2) The lists required by subsection 1 must include a description of the labor or portion of the work which each first tier subcontractor named in the list will provide to the prime contractor.
- (3) A prime contractor shall include its name on a list required by paragraph (a) of subsection 1 if it will perform any of the work required to be listed pursuant to paragraph (a) of subsection 1.
- (4) Except as otherwise provided in this subsection, if a contractor:
 - (a) Fails to submit a required Subcontractors List within the required time; or
 - (b) Submits a Subcontractors List that includes the name of a subcontractor who, at the time of the submission of the list, is on disqualified status with the State Public Works Board pursuant to NRS 338.1376, the contractor's bid shall be deemed not responsive. A contractor's bid shall not be deemed not responsive on the grounds that the contractor submitted a list that includes the name of a subcontractor who, at the time of the submission of the list, is on disqualified status with the State Public Works Board pursuant to NRS



338.1376 if the contractor, before the award of the contract, provides an acceptable replacement subcontractor in the manner set forth in subsection 1 of NRS 338.13895.

- (5) A contractor whose bid is accepted shall not substitute a subcontractor for any subcontractor who is named in the bid, unless:
 - (a) The City or its authorized representative objects to the subcontractor, requests in writing a change in the subcontractor and pays any increase in costs resulting from the change.
 - (b) The substitution is approved by the City or its authorized representative. The substitution must be approved if the City or its authorized representative determines that:
 - (1) The named subcontractor, after having a reasonable opportunity, fails or refuses to execute a written contract with the contractor which was offered to the named subcontractor with the same general terms that all other subcontractors on the project were offered;
 - (2) The named subcontractor files for bankruptcy or becomes insolvent;
 - (3) The named subcontractor fails or refuses to perform his subcontract within a reasonable time or is unable to furnish a performance bond and payment bond pursuant to NRS 339.025; or
 - (4) The named subcontractor is not properly licensed to provide that labor or portion of the work.
 - (c) The City or its authorized representative, in awarding the contract pursuant to NRS 338.1375 to 338.139, inclusive:
 - (1) Applies such criteria set forth in NRS 338.1377 as are appropriate for subcontractors and determines that the subcontractor does not meet those criteria; and
 - (2) Requests in writing a substitution of the subcontractor.
- (6) If a contractor indicates pursuant to subsection 1 that it will perform a portion of work on the public work and thereafter requests to substitute a subcontractor to perform such work, the contractor shall provide to the City a written explanation in the form required by the City which contains the reasons that:
 - (a) A subcontractor was not originally contemplated to be used on that portion of the public work; and
 - (b) The substitution is in the best interest of the City of Elko.



- (7) As used in this section, “general terms” means the terms and conditions of a contract that set the basic requirements for a public work and apply without regard to the particular trade or specialty of a subcontractor, but does not include any provision that controls or relates to the specific portion of the public work that will be completed by a subcontractor, including, without limitation, the materials to be used by the subcontractor or other details of the work to be performed by the subcontractor.
- 8) **All Bids must include a printout from the Nevada State Contractor's Board internet website (<http://www.nscb.nv.gov>), dated no more than 90 calendar days prior to the date for receipt of Bids, showing that the Bidder has a Nevada Contractor’s license in good standing, and that the license is of the type and the monetary limit is sufficiently high to permit the Bidder to perform the work as a general contractor. (Must Accompany Bid)**
- 9) **A Bid by a corporation, limited liability company, or limited partnership, must include either: (A) for a foreign entity, a Certificate issued by the Nevada Secretary of State within 90 calendar days prior to the date for receipt of Bids, certifying that the Bidder is qualified to do business in the State of Nevada (i.e., a Good Standing Certificate); or (B) for both foreign and domestic entities, a printout from a Business Entity Search on the Nevada Secretary of State Website within 30 calendar days prior to the date for receipt of Bids showing that the Bidder is an active entity registered in that office, together with any other information about the entity contained on the web page. (Must Accompany Bid)**
- 10) Bidders must supply all information required by the Bid documents, and specifications. Bids must be full and complete. The City Council reserves the right in its sole discretion to reject any Bid as nonresponsive as a result of any error or omission in the Bid.
- 11) Bids must be clearly written without erasure or deletions. The City Council reserves the right to reject any Bid containing erasures or deletions.
- 12) Bidders may not modify the Bid Form or qualify their Bids.
- 13) Submission of a Bid signifies careful examination of the Contract Documents and complete understanding of the nature, extent and location of Work to be performed. The Bidder must complete the tasks listed in subsections "a" through "e" below, as a condition to bidding, and submission of a Bid shall constitute the Bidder's express



representation to the City that the Bidder has fully completed the following:

- a) The Bidder has visited and investigated the site where the Work will be performed prior to bidding and is satisfied with all conditions affecting the Work, including but not restricted to those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electrical power, roads and uncertainties of weather, or similar physical conditions at the Project site, and the character of equipment and facilities needed prior to and during prosecution of the Work. The Bidder is satisfied as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from inspection of the Project site, including all exploratory work done by the City, as well as from information presented by the Contract Documents, or any other information made available to the Bidder prior to receipt of bids. Any failure by the Bidder to become acquainted with the available information shall not relieve the Bidder from the responsibility for estimating properly the difficulty or cost of successfully performing the Work.
- b) The Bidder shall be entitled to rely upon all information furnished to the Bidder in writing by the City with respect to the Project site and to make all inferences from it that would reasonably be made by a contractor having knowledge and experience with similar work; however, the Bidder shall not be entitled to infer from City-supplied information any fact or condition which would not be inferred by a bidder having knowledge and experience with similar work and, if the City-supplied information is inadequate or insufficient in any respect, the Bidder shall be required to obtain independently such other information as a knowledgeable and experienced contractor would prudently obtain in order to evaluate any such condition.
- c) The Bidder specifically acknowledges familiarity with all Federal, State, and local laws, ordinances, rules, and regulations which may in any manner affect those engaged or employed in the Work, or the materials or equipment in or about the Work, or in any way affect the conduct of the Work.
- d) Bidder has correlated its knowledge and the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents; and
- e) Bidder has given the City or its authorized representative prompt written notice of all conflicts, errors, ambiguities or discrepancies that it has discovered in or among the Contract Documents; provided, the City reserves the sole and



exclusive right, in its discretion, to revise the Contract Documents to the extent permitted by law.

- 14) Bidders may examine any available "as-built" drawings of previous work by giving the City or its authorized representative a request clearly identifying the requested drawings, so long as the disclosure of the as-built drawings does not violate the intellectual property rights of a third party. The City will not be responsible for accuracy of "as-built" drawings.
- 15) All questions about the meaning or intent of the Contract Documents are to be directed to the City or its authorized representative. Interpretations or clarifications considered necessary by the City or its authorized representative in response to such questions will be issued by Addendum mailed or delivered to all persons who were previously supplied the Bidding Documents. Questions received less than seven (7) business days prior to the date for opening Bids may not be answered. Only questions answered by a formal written Addendum will be binding upon the City. Questions answered in a written format other than an Addendum, or verbal or other unwritten interpretations or clarifications will not be binding upon the City.
- 16) Addenda may also be issued to modify the Bidding Documents at the discretion of the City.
- 17) Addenda must be acknowledged by the Bidder in the Bid Form by number. Addenda are Contract Documents. A complete list of Addenda may be obtained from the City or its authorized representative.
- 18) For contracts of \$100,000.00 or more, subject to certain limited exceptions, NRS 338.020 requires the contractor and all subcontractors to pay at least the prevailing wage set by the Nevada Labor Commissioner in effect at the time of contract award, even if the prevailing wage rates are changed between the time of preparation of the specifications and the time of contract award. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by the Nevada Labor Commissioner and in effect at the time of the printing of the specifications, are included in the specifications. All Bidders are responsible for confirming whether any applicable prevailing wage rates are changed between the time of preparation of the specifications and the time of contract award. **Current "Prevailing Wage Rates for Elko County" are included in the attachment at the end of the Contract Technical Specifications for the Project.**
- 19) Pursuant to NRS 338.140(1)(b), the City is prohibited from drafting or causing to be



drafted specifications for bids, except in those instances where the product is designated to match others in use on a particular public improvement either

completed or in the course of completion, calling for a designated material, product, thing or service by specific brand or trade name unless the specification lists at least two brands or trade names of comparable quality or utility and is followed by the words "or equal" so that bidders may furnish any equal material, product, thing or service. In the event equals are identified in the specifications, bids must be based on products and systems specified, or listed by name, in the Contract Documents or listed by name in Addenda. In the event the term "or equal" is used in the specifications, the following procedure must be followed for the approval of an equal:

- a) Any Bidder may request the City or its authorized representative to approve an equal prior to Bid opening, and each Bidder is encouraged to do so as soon as possible if its Bid will include an equal. However, no Bidder is required to make such a request.
 - b) If an equal item is approved prior to Bid opening, it must be listed on an Addenda to all prospective Bidders.
 - c) Requests for approval of an equal must contain sufficient information to permit the City or its representative to assess its suitability and impact on the Project. Insufficient information regarding the suitability of the equal shall be grounds for disapproval.
 - d) Nevada law permits the Contractor to submit data substantiating a request for approval of an equal up to seven (7) business days after the award.
 - e) If the request for approval of an "equal" is not given, the Bidder's Bid must be deemed nonresponsive (and the award rescinded if it has been made).
 - f) Substitutions may be requested after the Contract has been signed, but only in accordance with requirements specified in the General Conditions and Specifications, and Nevada law.
- 20) Bids will be received at the City Clerk's Office at **1751 College Avenue, Elko, Nevada**. Bids will be opened in a conference room at the City offices.
- a. Envelopes or boxes containing Bids must be sealed, and marked with name and address of the Bidder, and addressed to:

City of Elko

1751 College Avenue



Elko, Nevada 89801

b. Mark envelopes and/or boxes: BID FOR: CITY OF ELKO

**PROJECT FOR: CITY OF ELKO HOSPITAL SECOND SOURCE WATER LINE & PRV
PROJECT, PWP- EL-2022-450**

- 21) By 4:00 p.m. of the **twentieth** business day following acceptance of Bids by the City Council, the bidder must deliver to the City proof that Bidder has taken out for the entire period covered by the proposed contract all insurance policies that would be required to perform the Contract. Proof of insurance may, without limitation, include a declaration page(s) and any other documents reasonably necessary to prove that all required insurance coverages are in effect at the time bids are submitted.,

Failure to properly and timely submit proof of insurance entitles the City Council to **reject the bid as non-responsive**, not issue a Notice to Proceed, and award the Contract to another Bidder.

- a. Any bid protest must be submitted in writing to **the City Attorney, David M. Stanton, at the law offices of Goicoechea, Di Grazia, Coyle & Stanton, Ltd., 530 Idaho Street, Elko, Nevada 89801** within five (5) business days after the date the recommendation to award a contract is issued by the City Council or its authorized representative. The notice of protest must include a written statement setting forth with specificity the reasons the person filing the notice believes the applicable provisions of law were violated. The protest must refer to the specific portions of all documents which form the basis for the protest. The protest must include the name, address and telephone number of the person representing the protesting party. The party filing the protest must concurrently transmit a copy of the initial protest document and any attached documentation to all other Bidders with a direct financial interest which may be adversely affected by the outcome of the protest and/or who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.

b. The City, to include the City Attorney, may investigate the protest.

c. A person filing a notice of protest may be required by the City at the time the notice of protest is filed, to post a bond with a good and solvent surety authorized to do business in the State of Nevada or submit other security, in a form approved



by the City, to the City who shall hold the bond or other security until a determination is made on the protest. A bond posted or other security submitted with a notice of protest must be in an amount equal to the lesser of: (a) Twenty-five percent of the total value of the bid submitted by the person filing the notice of protest; or (b) Two hundred fifty thousand dollars.

d. A notice of protest filed in accordance with the provisions of this section operates as a stay of action in relation to the awarding of any contract until a determination is made by the City on the protest.

e. A person who makes an unsuccessful bid may not seek any type of judicial intervention until the City has made a determination on the protest and awarded the contract.

f. Neither the City, nor any authorized representative of the City, is liable for any costs, expenses, attorney's fees, loss of income or other damages sustained by a person who makes a bid, whether or not the person files a notice of protest pursuant to this section.

g. If the protest is upheld, the bond posted or other security submitted with the notice of protest must be returned to the person who posted the bond or submitted the security. If the protest is rejected, a claim may be made against the bond or other security by the City in an amount equal to the expenses incurred by the City because of the unsuccessful protest. Any money remaining after the claim has been satisfied must be returned to the person who posted the bond or submitted the security.

h. Bidders are advised to consult Nevada Revised Statutes 338.142 for requirements applicable to protests of awards of public works contracts.

- 22) Prior to award, the City Council reserves the right to reject any or all bids to the extent permitted by law including, without limitation, the right to reject any or all responsive bids or bids submitted by bidders determined to be not responsive. Bidders are advised that any bid may be rejected if the public interest would be served by such a rejection.
- 23) The City Council also reserves the right to waive technical defects to the extent such defects are minor and the waiver does not provide any bidder with a competitive advantage over any other bidder.
- 24) Unbalanced bids and conditional bids are nonresponsive. For purposes of this paragraph, an "unbalanced bid" is one having nominal prices for some work items and enhanced prices for other work items. A "conditional bid" is one in which one or more specified prices may change after a bid is submitted.



- 25) Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between written words and figures, or words and numerals, will be resolved in favor of the words.
- 26) In evaluating bids to determine the best bid (where required), the City Council will consider the qualifications of bidders; whether the bids are responsive (to include whether the bids comply with the prescribed requirements, and such alternates, unit prices and other data, as are requested in the Bid Form or prior to the Notice of Award); whether the bidder is responsible; whether the quality of the services, materials, equipment or labor offered conforms to the approved plans or specifications; and whether the public interest would be served by such a rejection. The City may conduct such investigations as the City Council deems necessary to assist in this evaluation.
- 27) As a requisite to bidding on the work, bidders and their subcontractors must be properly licensed at the time of bid opening to perform all work bid under Chapter 624 of the Nevada Revised Statutes and Chapter 624 of the Nevada Administrative Code.
- 28) Unless all bids are rejected and except as otherwise provided under Nevada law, the contract will be awarded to the lowest responsive, responsible bidder.
- 29) For public works contracts of \$250,000 or more, NRS 338.147 requires the City to award the contract to the contractor who submits the best bid. Bidders are directed to NRS 338.147 for the criteria used to determine the best bid, which includes criteria for determining the lowest bid.
- 30) Bids may not be withdrawn (1) within sixty (60) calendar days following the date of bid opening or (2) after the contract has been awarded.
- 31) Bidders are advised that Senate Bill 207 (2019), known as the "Apprenticeship Utilization Act, provides as follows:
 - a) A contractor or subcontractor engaged in vertical construction who employs a worker on a public work pursuant to NRS 338.040 shall use one or more apprentices for at least 10 percent of the total hours of labor worked for each apprenticed craft or type of work to be performed on the public work for



which more than three workers are employed.

- b) A contractor or subcontractor engaged in horizontal construction who employs a worker on a public work pursuant to NRS 338.040 shall use one or more apprentices for at least 3 percent of the total hours of labor worked for each apprenticed craft or type of work to be performed on the public work for which more than three workers are employed.
- c) On or after January 1, 2021, the Labor Commissioner, in collaboration with the State Apprenticeship Council, may adopt regulations to increase the percentage of total hours of labor required to be performed by an apprentice pursuant to subsection 1 or 2 of Senate Bill 207 by not more than 2 percentage points.
- d) A contractor or subcontractor engaged on a public work is not required to use an apprentice in a craft or type of work performed in a jurisdiction recognized by the State Apprenticeship Council as not having apprentices in that craft or type of work.
- e) The City may, upon the request of a contractor or subcontractor, submit a request to the Labor Commissioner to modify or waive the percentage of hours of labor provided by one or more apprentices required pursuant to subsection 1 or 2 for good cause. The City must submit such a request, before an advertisement for bids has been placed, the opening of bids or the award of a contract for a public work or after the public body has commenced work on the public work. Such a request must include any supporting documentation, including, without limitation, proof of denial of or failure to approve a request for apprentices pursuant to subparagraph (3) of paragraph (d) of subsection 10 of Senate Bill 207.
- f) The Labor Commissioner shall issue a determination of whether to grant a modification or waiver requested by the City within 15 days after the receipt of such request. The Labor Commissioner may grant such a request if he or she makes a finding that there is good cause to modify or waive the percentage of hours of labor provided by one or more apprentices required pursuant to subsection 1 or 2 of Senate Bill 207.
- g) The City, a contractor or a subcontractor may request a hearing on the determination of the Labor Commissioner within 10 days after receipt of the determination of the Labor Commissioner. The hearing must be conducted in



accordance with regulations adopted by the Labor Commissioner. If the Labor Commissioner does not receive a request for a hearing pursuant to subsection 8 of Senate Bill 207, the determination of the Labor Commissioner is a final decision for the purposes of judicial review pursuant to chapter 233B of NRS.

- h) A contractor or subcontractor engaged on a public work shall enter into an apprenticeship agreement for all apprentices required to be used in the construction of a public work. If the Labor Commissioner granted a modification or waiver pursuant to subsection 7 of Senate Bill 207 because the Labor Commissioner finds that a request for apprentices was denied or the request was not approved within 5 business days as described in subparagraph (3) of paragraph (d) of subsection 10 of Senate Bill 207 and apprentices are later provided, then the contractor or subcontractor shall enter into an apprenticeship agreement for all apprentices later provided.
- i) As used in Senate Bill 207:
 - (1) "Apprentice" means a person enrolled in an apprenticeship program recognized by the State Apprenticeship Council.
 - (2) "Apprenticed craft or type of work" means a craft or type of work for which there is an existing apprenticeship program recognized by the State Apprenticeship Council.
 - (3) "Apprenticeship program" means an apprenticeship program recognized by the State Apprenticeship Council.
 - (4) "Good cause" means:
 - (A) There are no apprentices available from an apprenticeship program within the jurisdiction where the public work is to be completed as recognized by the State Apprenticeship Council;
 - (B) The contractor or subcontractor is required to perform uniquely complex or hazardous tasks on the public work that require the skill and expertise of a greater percentage of journeymen; or
 - (C) The contractor or subcontractor has requested apprentices from an apprenticeship program and the request has been denied or the request has not been approved within 5 business days.

The term "good cause" does not include the refusal of a contractor or subcontractor to



enter into an apprenticeship agreement pursuant to subsection 9 of Senate Bill 207.

(5) "Journeyman" has the meaning ascribed to it in NRS 624.260.

(6) "State Apprenticeship Council" means the State Apprenticeship Council created by NRS 610.030.

- 32) Federal funds under the American Rescue Plan Act of 2021 will be used for this project; accordingly, special requirements will apply to ensure compliance with contract and grant award provisions, as well as applicable Federal regulations, policies, and guidance issued by the United States Department of the Treasury and other Federal agencies. The applicable regulations may vary depending upon the source of funds.
- 33) The City, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

END OF DOCUMENT



3.0 PUBLIC WORKS CONTRACT

(NEVADA REVISED STATUTES CHAPTER 338)

This Contract is made and entered into on this ___ day of _____, 20__ (hereinafter the "Effective Date") between the City of Elko, Nevada, a municipal corporation and political subdivision of the State of Nevada (hereinafter the "Owner") and:

which party is a:

(Business name and describe individual and/or type of business entity, including state of formation or incorporation, where applicable) hereinafter "Contractor."

RECITALS

WHEREAS, Owner intends to award a contract for the performance of a public works project known as the **CITY OF ELKO HOSPITAL SECOND SOURCE WATER LINE AND PRV PROJECT** (hereinafter the "Project");

WHEREAS, the Project is generally described as follows: The construction of a new water transmission line with new pressure reducing and sustaining valve stations to provide a second source of municipal water for potable and fire protection for the Northeastern Nevada Regional Hospital property located on Errecart Boulevard near



the intersection of Errecart Boulevard and Lamoille Highway (SR 227).

WHEREAS, Contractor was selected to perform the Project in accordance with Chapter 338 of the Nevada Revised Statutes and to complete the work in accordance with the Contract Documents (defined below) (hereinafter the "Work");

WHEREAS, the American Rescue Plan Act of 2021 (ARPA) established the Coronavirus State and Local Fiscal Recovery Funds under sections 602 and 603 of the Social Security Act to help states and localities address the economic and health consequences of the COVID-19 pandemic; and

WHEREAS, the United States Department of Treasury has adopted guidance regarding the use of ARPA funds to respond to the Coronavirus Disease 2019 (COVID-19) public health emergency and its economic impacts to make necessary investments in water, sewer, and broadband infrastructure; and

WHEREAS, Owner has received ARPA funding from the State of Nevada as a pass-through from the federal government to respond to the public health emergency with respect to COVID-19; and

WHEREAS, Owner wishes to engage Contractor to assist Owner in utilizing certain ARPA funds.

NOW, THEREFORE, for and in consideration of the above recitals and for good and valuable consideration as further described herein, the parties agree as follows:



ARTICLE ONE - DESCRIPTION OF WORK

Contractor shall perform all Work needed to complete the Project in accordance with this Contract and the documents attached hereto and incorporated herein as

Exhibits 1 through **30**, as follows:

- Exhibit 1** Bid Form
- Exhibit 2** Bid Proposal Guarantee (including Bid Bond, if applicable)
- Exhibit 3** Bidder Experience Qualifications
- Exhibit 4** Designation of Subcontractors with 1% & 5% Subcontractor Lists
- Exhibit 5** Affidavit of Non-Collusion
- Exhibit 6** Certification of Bidder Regarding Penalties for Non-Compliance with Nevada Prevailing Wage Requirements
- Exhibit 7** Fringe Benefit Plan, Fund or Program Disbursement Information
- Exhibit 8** Drawings (including plans, maps, plats and blueprints)
- Exhibit 9** Performance Bond
- Exhibit 10** Payment Bond
- Exhibit 11** Notice of Award
- Exhibit 12** Notice to Proceed
- Exhibit 13** Standard Specifications and Details for Public Works Construction
(Orange Book) *2016 Revised Edition* (see the following URL:
<http://rtcwashoe.wpengine.com/wp-content/uploads/2018/01/2016-Version-Revision-No.-9.pdf>) (hard copy not attached to Contract)
- Exhibit 14** General Provisions (depending upon applicable requirements)
- Exhibit 15** Special or Supplemental Provisions
- Exhibit 16** Technical Specifications



- Exhibit 17** Prevailing Wage Rates - Elko County or Davis-Bacon Wage Rates
- Exhibit 18** Preferential Bidders Status Affidavit
- Exhibit 19** Certification Not to Engage in Boycott of Israel
- Exhibit 20** Certification of Bidder Regarding Penalties for Noncompliance with Nevada Prevailing Wage Requirements
- Exhibit 21** Certification of Bidder, Proposed Contractor or Subcontractor Regarding Debarment, Suspension, Ineligibility or Voluntary Exclusion
- Exhibit 22** Disadvantaged Business Utilization-Guidance to Borrowers and Prime Contractors Appendix-A
- Exhibit 23** Disadvantaged Business Utilization-Guidance to Borrowers and Prime Contractors Appendix-B
- Exhibit 24** Disadvantaged Business Utilization-Guidance to Borrowers and Prime Contractors Appendix-C
- Exhibit 25** Disadvantaged Business Utilization-Guidance to Borrowers and Prime Contractors Appendix-D
- Exhibit 26** Equal Employment Opportunity Report Statement
- Exhibit 27** AIS American Iron and Steel Certification
- Exhibit 28** AIS American Iron and Steel Waiver Request
- Exhibit 29** AIS American Iron and Steel Checklist for Waiver Request
- Exhibit 30** AIS Construction Contract
- Exhibit 31** Certification of Offeror/Bidder Regarding Tax Delinquency and Felony Convictions

This Contract and **Exhibits 1 through 31** are herein referred to collectively as the "Contract Documents." The Work shall include all items identified as Additive Alternates in the Notice of Award. Unless otherwise indicated in the Contract Documents, the Work shall not include design work, which Owner shall procure through a separate contract or contracts with design professionals, nor shall the Work include work performed by Owner or items identified as Deductive Alternates in the Notice of Award.



In the event of an inconsistency between the terms of this Contract and any of the Contract Documents attached hereto as **Exhibits 1 through 31**, except as otherwise specifically provided in this Contract, the terms of this Contract shall prevail. The parties acknowledge and agree that the Work is funded in whole or in part with Federal money under the American Rescue Plan Act of 2021 (ARPA), and that the parties are subject to all applicable ARPA requirements.



ARTICLE TWO-CONTRACT PRICE

Owner agrees to pay Contractor for the Work the total price of:

\$ _____

(hereinafter the “Contract Price”), which includes all labor, materials, and (where applicable) architectural and engineering plans necessary for the erection and completion of the Work as described in the Plans and Specifications and in accordance with the Contract Documents. Payment of the Contract Price is subject to approved additions or approved deductions in accordance with the provisions of this Contract.

ARTICLE THREE - STARTING AND COMPLETION DATES

Construction under this Contract shall begin no later than the date indicated on the “Notice to Proceed” to be issued by Owner after execution of this Contract. Subject to written extensions of time or delays authorized by Owner or stoppage of Work as permitted in this Contract, the Work shall be substantially completed no later than “**120 calendar days**” after the Commencement Date indicated on the “**Notice to Proceed**” document which will be issued by the Owner on or after the Effective Date (hereinafter the “Contract Time”). In the event the Work has not been completed in accordance with the terms of this **Contract**, including written extensions of time and stoppages of Work as permitted by this **Contract**, or in the event the Contractor abandons the Work, the Owner may contract with a third party for completion of the Work, in which event the Contractor shall pay to Owner the additional cost for the portion of the Work completed by the third party. The foregoing is in addition to any other remedies provided under this Contract.



ARTICLE FOUR - CONTRACT DOCUMENTS

The Contract Documents on which the Contract between Owner and Contractor is based and which contain the Plans and Specifications in accordance with which the Work is to be done are as follows:

A. This Contract, with any supplementary contracts and conditions attached hereto which are signed by both parties;

B. **Exhibits 1 through 31**, which are hereby incorporated into this Contract by this reference; provided

C. Written Work Change Orders properly issued.

The Contract Documents together form the contract for the Work herein described. The parties intend that the Contract Documents include provisions for all labor, materials, equipment, supplies, and other items necessary for the execution and completion of the Work, and all items and conditions of payment. The documents also include all work and procedures not expressly indicated therein necessary for proper execution of this Project.

ARTICLE FIVE - DUTIES AND AUTHORITY OF THE OWNER

The duties and authority of the Owner are as follows:

A. General Administration of Contract. General administration of the contract to ensure compliance with design plans.

B. Access to Work Site for Inspections. Owner, or Owner's agents, shall be given free access to the Work at all time during its preparation and progress.

C. Payment and Acceptance of Work.

(1) Application for Progress Payment. As a prerequisite to Contractor's entitlement to a progress payment, Contractor shall first submit to Owner for review an Application for Progress Payment filled out and signed by Contractor



covering the Work completed to that date, and accompanied by such supporting documentation as is required by the Contract documents. If payment is requested on the basis of materials and equipment not yet incorporated into the Work, but delivered and suitably stored at the site or at another location designated by Contractor, the Application for Progress Payment shall also be accompanied by a bill of sale, invoice or other documentation warranting that Owner has received the materials and equipment free and clear of all liens (to include lien waivers, if appropriate), charges, security interests and encumbrances, and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect Owner's interests therein, all of which will be satisfactory to Owner.

(2) Progress Payments. Except as otherwise provided herein, Owner shall pay to Contractor the amount indicated on each Application for Progress Payment within thirty (30) calendar days of the date it is submitted to the Owner. All Progress Payments are subject to the requirements of NRS 338.515 (Time for making payments; amounts paid; amounts withheld as retainage; rate of interest paid on amounts withheld; powers of Labor Commissioner when worker is owed wages), as amended.

(3) Payment Upon Final Completion. Payment of any outstanding balance shall be paid in accordance with NRS 338.520 upon occupancy, use or recording of notice of completion, less amounts previously paid for the Work or amounts which Owner is required to withhold by order of the Nevada Labor Commissioner pursuant to NRS 338.515. In the event any liens are filed on the Project, those sums shall be withheld from the final retention payment, until such liens are resolved and removed. Upon final acceptance of the completed Work, Owner may publish a Notice of Completion. Contractor acknowledges and agrees that "substantial completion" is not equivalent to final completion.

D. Work Performed by Owner. This Contract specifically allows Work to be performed by Owner. Contractor assumes no responsibility for work performed by Owner and Owner shall release and hold harmless Contractor for any deficiencies in such work, and shall indemnify and defend Contractor from and against any and all claims arising from or in any manner related to Work performed by Owner. Owner shall, upon Contractor's request, identify in writing all work performed by



Owner which is included within the scope of the Work and the Contract Price shall thereafter be reduced by the amount Contractor would have otherwise charged for the work pursuant to the Contract.

ARTICLE SIX - RESPONSIBILITIES OF CONTRACTOR

Contractor's duties and rights in connection with the project herein are as follows:

A. Responsibility for and Supervision of Construction. Contractor shall be solely responsible for all construction under this Contract, including the techniques, sequences, procedures, and means, and for coordination of all Work. Contractor shall supervise and direct the Work to the best of its ability, and give the Work all attention necessary for such proper supervision and direction.

B. Furnishing of Labor, Materials. Contractor shall provide and pay, if necessary, for all labor, materials, and equipment, including tools, construction equipment, and machinery, utilities, transportation, and all other facilities and services necessary for the proper completion of Work on the project in accordance with the Contract Documents.

C. Compliance with Construction Laws and Regulations. The Contractor and any subcontractor or other person who provides labor, equipment, materials, supplies or services for the Work shall comply with the requirements of all applicable Federal, state and local laws, including, without limitation, any applicable licensing and registration requirements and requirements for the payment of sales and use taxes on equipment, materials and supplies provided for the Work and the requirements set forth in Appendix 1 (Special Provisions – Federal Requirements). Appendix 1 is incorporated herein by this reference as if set forth in full in the body of this document. If any of the Contract Documents are at variance therewith, Contractor shall notify Owner promptly on discovery of such variance. Contractor shall comply with all applicable ARPA requirements, whether or not stated in the Contract Documents. In the event of an inconsistency between Appendix 1 and any other Contract Document, the provisions of Appendix 1 shall control.

D. Responsibility for Negligence of Employees and Subcontractors. Contractor



assumes full responsibility for acts, negligence, or omissions of all its employees on this project, for those of its subcontractors and their employees, and for those of all other persons doing Work under a contract with Contractor.

E. Materials Warranty. In addition to any other warranties set forth herein, Contractor represents and warrants to Owner that the materials used in the Work, and made a part of the structure on the Property or placed permanently in connection therewith, will be new unless otherwise specified in the Contract Documents, of good quality, free of defects, and in conformity with the Contract Documents. It is understood between the parties hereto that materials not so in conformity are defective.

F. Clean-up. Contractor agrees to remove all such waste material and rubbish on termination of the project, together with all its tools, equipment, machinery and surplus materials. Contractor agrees, on terminating its Work at the site, to conduct general clean-up operations.

G. Indemnity and Hold Harmless Contract. Contractor agrees to indemnify and hold harmless Owner, and its agents, and employees, from and against all claims, damages, losses, and expenses, including reasonable attorneys' fees in case it shall be necessary to file an action, arising out of performance of the Work herein, which is (1) for bodily injury, illness, or death, or for property damages including loss of use, and (2) caused in whole or in part by Contractor's intentional or negligent act or omission. Owner agrees to indemnify and hold harmless Contractor, and its agents, and employees, from and against all claims, damages, losses, and expenses, including reasonable attorneys' fees in case it shall be necessary to file an action, arising out of performance of the work herein (to include work performed by Owner), which is (1) for bodily injury, illness, or death, or for property damages including loss of use, and (2) caused in whole or in part by Owner's intentional or negligent act or omission.

H. Safety Precautions and Programs. Contractor has the duty of providing for and overseeing all safety orders, precautions, and programs necessary for the reasonable safety of the Work. In this connection, Contractor shall take reasonable precautions for the safety of all Work employees and other persons whom the Work might affect, all labor and materials incorporated in the project,



and all property and improvements on the construction site and adjacent thereto, complying with all applicable laws, ordinances, rules, regulations and orders.

I. Subcontractors. Contractor acknowledges that it has provided Owner with a list or lists of all subcontractors which Contractor shall use for the Work to be performed herein in compliance with NRS 338.141(1)(b).

J. Payment of Materialmen. Contractor shall promptly pay all materialmen, subcontractors and other persons furnishing labor, material, goods or services to the Work, and shall indemnify and hold Owner harmless from any liens filed by such persons or entities including reasonable attorney fees and court costs incurred in connection herewith.

K. Sales Taxes. Contractor shall be responsible for the payment of all sales, use, gross receipts or other taxes related to Contractor's Work under this Contract.

L. Worker's Compensation. Contractor shall, at its sole cost and expense, be responsible for providing or assuring that worker's compensation coverage is provided to or by, all persons or entities providing labor in connection with the Work as required under the laws of the State of Nevada.

M. Employee Benefits. Contractor shall be responsible at its sole cost and expense for payment of any or all employee benefits taxes, including but not limited to unemployment, social security, retirement, health, welfare or any other fringe benefit in connection with any Work performed by Contractor.

N. Fees, licenses and Permits. Except as otherwise provided in this Subsection N, Contractor shall be responsible for fees (to include inspection fees), licenses and permits required by a governmental entity, to include, without limitation, the City of Elko. Notwithstanding the foregoing, Owner shall pay for or waive the following fees and/or permits to the extent required for the performance of the Work:

1. NDEP-Bureau of Safe Drinking Water review and approval fees.
2. Grading Permit Fees associated with the Project Grading Work and Excavation Work required to construct the water line improvements.



3. City of Elko Building Permit Fees associated and included in the Project work.

4. Other Construction Fees not shown in the Project Bid Schedule but required to complete the Project Work.

O. No Assignment of Payments. Contractor shall not assign the right to receive any payments due under this Contract except with the prior written consent of the Owner.

P. Capacity of Contractor. Contractor has the financial capacity to pay all debts incurred in the performance of the Work, and possesses or shall prior to performance acquire all knowledge, equipment, materials, supplies and other means necessary to finally complete the Work within the Contract Time, to include the retention of appropriate subcontractors.

Q. Financial Capacity of Subcontractors. Contractor will ensure that all subcontractors it retains will have the financial capacity to pay all debts incurred in the performance of the portion of the Work for which they are subcontracted, and will possess or shall prior to performance acquire all knowledge, equipment, materials, supplies and other means necessary to finally complete the portion of the Work for which they are subcontracted within the Contract Time.

R. Licensing. Contractor is authorized to do business in the State of Nevada, is licensed for the type of work to be performed herein and holds Nevada Contractor's License Number(s):

S. Site Inspection and Research. Contractor has visited the Property and has performed sufficient research necessary to familiarize itself with the Property and any special or local conditions, to include climate, topography and geographic



location that have the potential to materially impact its ability to perform the Work within the Contract Time. Contractor has also reviewed all reasonably available reports (including geotechnical reports), test results, drilling logs and studies pertaining to subsurface conditions at the Property. Based upon the foregoing, Contractor has determined that it can perform the Work within the Contract Time.

T. Audits. Contractor will comply with Title 2 of the C.F.R. and any guidance in effect from the Office of Management and Budget (OMB) related (but not limited to) audit requirements for grantees that expend \$750,000 or more in federal awards during the grantee's fiscal year, including the requirement that grantees must have an annual audit prepared by an independent auditor in accordance with the terms and requirements of the appropriate circular.

U. Eligibility. If required, Contractor will certify that Contractor and subcontractors are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this project by any Federal department or agency. This certification is made pursuant to regulations implementing Executive Order 12549, Department and Suspension, 28 C.F.R. pt. 67, §67.510, as published as pt. VII of May 26, 1988, Federal Register (pp. 19150-19211).

V. Lobbying. Contractor will ensure that no funding associated with this Contract will be used for lobbying.

W. Conflicts of Interest. Contractor will disclose any existing or potential conflicts of interest relative to the performance of the Work.

X. Prohibition Against Drugs and Alcohol. Contractor will provide a work environment in which the use of alcohol and illegal drugs will not be allowed.

Y. ARPA Compliance. Contractor will comply with the requirements of the American Rescue Plan Act, including Subtitle M, Section 603 and Section 200 of Title 2.



Z. Disclosure of Federal Crimes. Contractor will disclose, in a timely manner, in writing to Owner all violations of federal criminal law involving fraud, bribery or gratuity violations potentially affecting the federal award. Contractor may be required to report certain civil, criminal and administrative proceedings to the federal System for Award Management (SAM). Failure to make required disclosures can result in any of the remedial activities described in 2 C.F.R. 200.338 including suspension and debarment.

AA. Compliance with Federal Regulations. Contractor will comply with all applicable Federal regulations now in effect and as they may be amended during the term of this Agreement. Contractor will, without limitation and to the extent applicable, comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements set forth in 2 CFR Part 200, or any reasonably equivalent procedures and requirements that may be prescribed.

BB. Use of Assets. Contractor must adequately account for and safeguard all assets and assure that they are used solely for authorized purposes.

CC. Equal Employment Opportunity Clause. Contractor acknowledges that except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. Part 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity."

DD. SAM. Contractor acknowledges that a contract award may not be made to parties listed on the government-wide exclusions in SAM in accordance with the OMB guidelines at 2 C.F.R. 180.

EE. Non-Discrimination. The Contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Contractor



to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.

FF. Nevada State Revolving Fund.

ARTICLE SEVEN - INSURANCE

A. Contractor's Liability Insurance. Contractor agrees to keep in force at his own expense during the entire period of construction of the project such liability insurance as will protect it from claims, under worker's compensation and other employee benefit laws, for bodily injury and death, and for property damage, that may arise out of work under this Contract, whether directly or indirectly by Contractor, or directly or indirectly by a subcontractor. The minimum liability limit for bodily injury on such insurance shall not be less than Two Million Dollars (\$2,000,000.00). Such insurance shall include contractual liability insurance applicable to Contractor's obligations under this contract. Unless previously provided, proof of such insurance shall be filed by Contractor with Owner within five (5) calendar days after execution of this contract.

B. Owner's Liability Insurance. Owner shall maintain premises liability in the amount of Two Million Dollars (\$2,000,000.00).

C. Property Damage Insurance. Contractor shall be solely responsible for any losses to his own equipment through fire, vandalism or other perils.

D. Fire and Perils Waiver. Owner and Contractor waive all rights against each other for damages caused by fire or other perils to the extent covered by insurance provided herein.

ARTICLE EIGHT - CORRECTING WORK

When it appears to Contractor during the course of construction that any Work does not conform to the Contract Documents, Contractor shall make necessary corrections so that such Work will so conform, and in addition will correct any defects caused by faulty materials, equipment, or workmanship in Work supervised by Contractor or by a subcontractor.



ARTICLE NINE - CONTRACTOR'S WARRANTY

Contractor further represents and warrants that the Work will be performed in a good and workmanlike manner, in conformance with the Contract Documents and free from any and all defects. For a period of one (1) year after final acceptance by the Owner or within such longer period as may be prescribed by law, Contractor shall, at its own expense, promptly repair, replace, rebuild or restore any portion of the Work that is determined by the Owner to be defective or not in conformance with the Contract Documents.

ARTICLE TEN - MANUFACTURER'S WARRANTIES

To the extent available to Contractor, Contractor shall deliver to Owner guarantees or warranties provided by the manufacturers of specific products utilized in the performance of the Work and installed or constructed on the Property.

ARTICLE ELEVEN - CHANGES IN THE WORK

A. Owner's Change Orders. Without invalidating the Contract, Owner may at any time, from time-to-time, order additions, deletions, or revisions in the Work that do not result in a material change to the scope of Work. These will only be authorized by written Change Orders. Change Orders are to be negotiated solely with Contractor or its authorized representative and not with subcontractors or materialmen. Upon receipt of a written Change Order, Contractor will proceed with the Work involved. All such Work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, an equitable adjustment will be made as provided in ARTICLE TWELVE or ARTICLE THIRTEEN.

B. Owner's Field Orders. Owner may authorize minor changes or alterations in the Work not involving extra cost and not inconsistent with the overall intent of the



Contract Documents. These may be accomplished by a written Field Order. If Contractor believes that any minor changes or alterations by Owner entitle it to an increase in the Contract Price, Contractor may suspend Work until the Owner and Contractor agree upon the increased price.

C. Unauthorized Additional Work. Additional Work performed by Contractor without authorization of a Change Order will not entitle Contractor to an increase in the Contract Price or an extension of the Contract Time.

D. Execution of Change Orders. Owner will, upon approval, execute appropriate Change Orders prepared by Contractor covering changes in the Work to be performed and any other claim of Contractor for a change in the Contract Time or the Contract Price that is reasonable.

E. Writing Required. All Change Orders of whatever type or nature must be in writing and signed by an authorized representative of the Owner. Accordingly, wherever the context of this Contract indicates that Owner approval is required, such approval must be as described in this ARTICLE ELEVEN, E, herein.

F. Suspension of Work. Notwithstanding any other provision herein, Contractor may not suspend Work based on a written Change Order affecting price or adding time unless the change requested materially affects Contractor's ability to perform the remainder of the Work within the price or time frames of the original Contract.

G. No Material Changes to Scope. In no event shall a Change Order cause a material change to the scope of the Work.

ARTICLE TWELVE - CHANGE OF CONTRACT PRICE

A. Total Compensation. The Contract Price constitutes the total compensation payable to Contractor for performing the Work. All duties, responsibilities, and obligations assigned to or undertaken by Contractor shall be at its expense without change in the Contract Price.

B. Necessity of Change Order. The Contract Price may only be changed by a Change Order approved by the Owner and the Contractor. Any claim for an increase in the Contract Price shall be in writing and delivered to Owner. All claims for adjustments in the Contract Price resulting from any such claim shall be



incorporated in a written Change Order. Subject to the limitations in ARTICLE ELEVEN, F, the Contractor may suspend Work until the Owner and Contractor agree upon the Change Order changing the Contract Price.

C. Determination of Value of Change Order Work. The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined by multiplying the applicable quantity by the unit price indicated in the bid form, except as otherwise agreed between Owner and Contractor in a written Change Order. In such case, Contractor will submit an itemized cost breakdown together with supporting data.

D. Amount of Credit to Owner. The amount of credit to be allowed by Contractor to Owner for any such change that results in a net decrease in costs, will be determined by multiplying the applicable quantity by the unit price indicated in the bid form, except as otherwise agreed between Owner and Contractor in a written Change Order. When both additions and credits are involved in any one change, the combined overhead and profit shall be figured on the basis of the net increase, if any.

ARTICLE THIRTEEN - CHANGE OF THE CONTRACT TIME

A. Necessity of Change Order. The Contract Time may only be changed by a Change Order. Any claim for an extension in the Contract Time shall be in writing delivered to Owner by Contractor within five (5) calendar days of the occurrence of the event giving rise to the claim. All claims for adjustment in the Contract Time shall be agreed upon in writing by the Owner and Contractor. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order. Subject to the limitations of ARTICLE ELEVEN, F, the Contractor may suspend Work until the Owner and Contractor agree upon the change in Contract Time.

B. Delays Beyond Contractor's Control. The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of Contractor if Contractor makes a claim for such extension(s) as provided in Section A of this ARTICLE THIRTEEN. Such delays shall include, but not be restricted to, acts or neglect by any separate contractor employed by Owner, fires, flood, labor



disputes, epidemics, abnormal weather conditions, unanticipated site conditions or Acts of God, suspension of Work by Contractor resulting from Owner and Contractor failing to agree on Change Orders and work stoppage as set forth in Section C, below. Notwithstanding all provisions herein to the contrary, delays beyond sixty (60) calendar days, for any reason, permit the Owner to terminate this Contract on ten (10) calendar days' prior written notice. In such instance, Owner shall be liable to Contractor for all Work performed to the date of termination.

ARTICLE FOURTEEN - NOTICES

Any and all notices, demands, requests, and other communications required or permitted to be served on or given to either party by the other shall be delivered personally or by United States Mail, first class postage prepaid, certified or registered mail, return receipt requested, by facsimile or by e-mail, read receipt, as follows:

Contractor: Name: _____
 Attention: _____
 Address: _____

 Facsimile: _____
 E-Mail: _____

Owner: Name: **City of Elko**
 Attention: **Kelly Wooldridge City Clerk**

 Address: **1751 College Avenue,**
 Elko, Nevada 89801

 Facsimile: **775-777-7126**

 E-Mail: **cityclerk@elkocitynv.gov**



Such addresses may be changed by the party entitled to receive notice any time upon this notice to the other party of designation of a new address. If delivered personally, such notice shall be effective upon delivery. If mailed, such notice shall be effective upon the date of receipt indicated on the return receipt.

ARTICLE FIFTEEN - EARLY TERMINATION FOR FAILURE TO REMEDY DEFAULT

A. Failure to Remedy Default; Early Termination. If Contractor defaults in performance of any material provision herein and Contractor fails to commence reasonable efforts to remedy such default after thirty (30) calendar days' written notice from the Owner specifying the default, Owner may then terminate this Contract before the completion date hereof without prejudice to any other remedy Owner may have.

B. Cost to Complete Project to be Reimbursed. If Owner terminates the Contract due to a breach in the terms of the Contract by Contractor, and is thereby required to retain a different contractor to complete the Project, any related increase in the total cost of the Project will be at Owner's sole discretion, will be withheld from any retention held by Owner, will be obtained from the proceeds of any applicable bond(s) posted by the Contractor and/or will be reimbursed by the Contractor to the Owner immediately upon demand.

ARTICLE SIXTEEN - LIQUIDATED DAMAGES

A. Liquidated Damages for Failure to Timely Achieve Substantial Completion. It is acknowledged that the Contractor's failure to achieve substantial completion of the Work within the Contract Time provided by the Contract Documents will cause the Owner to incur substantial economic damages and losses of types and in amounts which are impossible to compute and ascertain with certainty as a basis for recovery by the Owner of actual damages, and that liquidated damages represent a fair, reasonable and appropriate estimate thereof. Accordingly, in lieu of actual damages for such delay, the Contractor agrees that liquidated damages may be assessed and recovered by the Owner as against Contractor and its



Surety, in the event of delayed completion and without the Owner being required to present any evidence of the amount or character of actual damages sustained by reason thereof; therefore Contractor shall be liable to the Owner for payment of liquidated damages in the amount of **One Thousand Dollars (\$1,000.00)** for each calendar day that Substantial Completion is delayed beyond the Contract Time as adjusted for time extensions provided in accordance with the Contract Documents.

B. Interest. Interest shall accrue on all unpaid liquidated damages at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date of the liquidated damages accrue, plus 2 percent. The rate shall be adjusted accordingly on each January 1 and July 1 thereafter until the liquidated damages are paid in full.

C. Owner's Right of Offset. In the event there are sums due to Contractor from Owner subsequent to the date upon which liquidated damages begin to accrue, Owner may thereafter offset and deduct from such sums the amount of any liquidated damages then accrued and Contractor shall not thereafter be entitled to recover the difference from Owner.

D. Remedy not Exclusive. Liquidated damages are intended to represent estimated actual damages and are not intended as a penalty. Contractor shall pay liquidated damages to Owner without limiting Owner's right to terminate this Contract for default as provided elsewhere herein. Liquidated damages only represent damages for administrative costs, overhead and loss of public use caused by Contractor's delay. The imposition or recovery of liquidated damages by Owner shall in no manner affect Owner's ability to recover any other damages caused by Contractor's default to include, without limitation, the cost of completion.

ARTICLE SEVENTEEN - ADDITIONAL PROVISIONS

A. Integration. This Contract and the exhibits hereto constitute the entire contract between the parties with respect to the Work and supersede all prior agreements, offers and negotiations (to include, without limitation, the Invitation to



Bid and Instructions to Bidders, unless otherwise specifically stated herein) and may not be amended except by a contract in writing signed by the parties.

B. Binding on Assigns and Successors. This Contract shall inure to the benefit of and be binding upon the parties hereto and their respective heirs and assigns and successors.

C. Choice of Law; Jurisdiction and Venue. This Contract and the provisions hereof shall be construed, given effect and governed by the laws of the State of Nevada, and in the event of a breach of this contract by any of the parties, the other party shall have all remedies at law or equity provided by the laws of the State of Nevada. Irrespective of any statutory provision to the contrary, jurisdiction and venue for any action shall be in the Fourth Judicial District Court of the State of Nevada, in and for the County of Elko. The parties understand that statutory provisions may permit venue in locations other than the County of Elko; however, the parties hereby voluntarily waive any such statutory provisions.

D. Captions and Headings. The captions and headings of the sections hereof are for convenience only and shall not control or affect the meaning or construction of any of the terms or provisions of the Contract.

E. Attorney Fees and Costs to Prevailing Party. Should either party be required to seek legal action to enforce or interpret the terms and conditions of this contract, the prevailing party shall be entitled to reasonable attorney fees and costs.

F. Ambiguities. Each party has reviewed this Contract with counsel; accordingly, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Contract.

G. Unenforceability of Provisions. In the event that one or more of the provisions, or portions thereof, of the Contract is determined to be illegal and unenforceable, the remainder of the Contract shall not be affected thereby and each remaining provision or portion thereof shall continue to be valid and effective and shall be enforceable to the fullest extent permitted by law.

H. Further Documents. Contractor and Owner agree to execute all documents



necessary to complete the Contract described herein.

I. Waiver. Any waiver of one or more defaults or breach of any term of this Contract shall not be construed to constitute a waiver of future defaults or breaches of the terms of this Contract.

J. Signatures. The parties agree that this Contract may be executed by electronic or facsimile signatures, which shall have the same effect as original signatures of the parties. Also, this Contract may be executed in counterparts, all of which shall be deemed originals and with the same effect as if all parties had signed the original. The signatories to this Contract are authorized to execute this instrument on behalf of the respective parties.

K. Mediation. The parties recognize that differences sometimes arise in the course of a relationship and wish to avoid litigation. Accordingly, all claims, disputes and other matters in question between Contractor and Owner arising out of or relating to this Contract or the breach thereof, the Project, or the Work ("disputes") shall first be submitted to negotiation. Disputes claimed by either party must be made by written notice promptly upon the recognition of the event giving rise to such claim. If after thirty (30) calendar days from the date the dispute arose negotiations prove unsuccessful in whole or in part, any remaining disputes shall be submitted to a mediator and the mediation shall be performed expeditiously by a mediator located in Elko County, Nevada. In the event a mediator cannot be located in Elko County, Nevada, the parties agree to split the cost for a mediator to travel to Elko County, Nevada to mediate such claims.

Pending final resolution of any dispute, including mediation in accordance with this Section, Contractor shall proceed diligently with performance of the Work to the extent it is unrelated to the dispute and the subject matter of the dispute does not inhibit the progress of the Work generally and Owner shall continue to make payments to Contractor in accordance with this Agreement to the extent unrelated to the dispute. To the extent necessary in light of the circumstances, the Contract Time shall be extended by the period of time necessary to resolve any dispute. Such performance by Contractor and payment by Owner shall not operate to waive or estop either party from pursuing the claim which gave rise to the dispute.

If the mediation does not occur within ninety (90) calendar days of such dispute,



or if the mediation is conducted and all disputes are not therein resolved, then either party may file an action in the Fourth Judicial District Court, Elko, County, Nevada. All applicable statutes of limitations and the like shall be tolled while the requirements of this provision are pending, but only as to the disputes hereby submitted for negotiation or mediation.

L. Approval by City Council and Execution by City Official (s). Notwithstanding any other provision herein contained, this Contract shall not be binding on the Owner until it has been approved by the City Council and executed by its authorized official(s).

[Remainder of page intentionally left blank. Signature Page Immediately Follows]



IN WITNESS WHEREOF, the parties have executed this Contract as of the day and year first hereinabove written.

OWNER:

CITY OF ELKO

By: _____

MAYOR

CONTRACTOR (Company Name) :

By: _____

Title: _____

ATTEST:

KELLY WOOLDRIDGE, City Clerk



4.0 SPECIAL PROVISIONS- FEDERAL REQUIREMENTS

ARTICLE ONE – ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the recipient named below (hereinafter referred to as the “Recipient”) provides the assurances stated herein. The federal financial assistance may include federal grants, loans and contracts to provide assistance to the Recipient’s beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Recipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Recipient’s program(s) and activity(ies), so long as any portion of the Recipient’s program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Recipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Recipient acknowledges that Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Recipient understands



that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the

Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Recipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Recipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Recipient's programs, services, and activities.

3. Recipient agrees to consider the need for language services for LEP persons when Recipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

4. Recipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Recipient and Recipient's successors, transferees, and assignees for the period in which such assistance is provided.

5. Recipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Recipient and the Recipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.



6. Recipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Recipient for the period during which it retains ownership or possession of the property.

7. Recipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations.

Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Recipient shall comply with information requests, on-site compliance reviews and reporting requirements

8. Recipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Recipient also must inform the Department of the Treasury if Recipient has received no complaints under Title VI.

9. Recipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Recipient and the administrative agency that made the finding. If the Recipient settles a case or matter alleging such discrimination, the Recipient must provide documentation of the settlement. If Recipient has not been the subject of any court or administrative agency finding of discrimination, please so state.

10. If the Recipient makes sub-awards to other agencies or other entities, the Recipient is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that that they are effectively monitoring the civil rights compliance of subrecipients

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits



the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

Under penalty of perjury, the undersigned official(s) certifies that official(s) has read and understood the Recipient's obligations as herein described, that any information submitted in conjunction with this assurances document is accurate and complete, and that the Recipient is in compliance with the aforementioned nondiscrimination requirements.

Recipient	Date
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Signature of Authorized Official



ARTICLE TWO – GENERAL CIVIL RIGHTS PROVISIONS

Without in any manner limiting the foregoing, the Contractor agrees to comply with all pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the Contractor and its subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

ARTICLE THREE – LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

CERTIFICATION REGARDING LOBBYING

The Contractor certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

Contractor shall not use the funds awarded pursuant to this Agreement for any activity related to the following:

- a. Any attempt to influence the outcome of any federal, state, or local election, referendum, initiative or similar procedure, through in-kind or cash contributions, endorsements, publicity or a similar activity.
- b. Establishing, administering, contributing to or paying the expenses of a political party, campaign, political action committee or other organization established for the purpose of influencing the outcome of an election, referendum, initiative, or similar procedure.
- c. Any attempt to influence:
 - (1) The introduction or formulation of federal, state, or local legislation; or
 - (2) The enactment or modification of any pending federal, state, or local legislation, through communication with any member or employee of Congress, the Nevada Legislature or a local governmental entity responsible for enacting local legislation, including, without limitation, efforts to influence state or local officials to engage in a similar lobbying activity, or through communication with any governmental official or employee in connection with a decision to sign or veto enrolled legislation.



(3) Any attempt to influence the introduction, formulation, modification or enactment of a federal, state, or local rule, regulation, executive order or any other program, policy or position of the United States Government, the State of Nevada or a local governmental entity through communication with any officer or employee of the United States Government, the State of Nevada or a local governmental entity, including, without limitation, efforts to influence state or local officials to engage in a similar lobbying activity.

d. Any attempt to influence:

(1) The introduction or formulation of federal, state or local legislation;

(2) The enactment or modification of any pending federal, state, or local legislation;
or

(3) The introduction, formulation, modification or enactment of a federal, state, or local rules, regulation, executive order, or any other program, policy, or position of the United States Government, the State of Nevada or a local governmental entity, by preparing, distributing or using publicity or propaganda, or by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, fundraising drive, lobbying campaign or letter writing or telephone campaign.

(4) Legislative liaison activities, including, without limitation, attendance at legislative sessions or committee hearings, gathering information regarding legislation and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in an activity prohibited pursuant to subsections III.E.2.d.1-5, inclusive.

(5) Executive branch liaison activities, including, without limitation, attendance at hearings, gathering information regarding a rule, regulation, executive order or any other program, policy or position of the United States Government, the State of Nevada or a local governmental entity and analyzing the effect of the rule, regulation, executive order, program, policy, or position, when such activities are carried on in support of or in knowing preparation of an effort to engage in an activity prohibited pursuant to subsections III.E.2.d.1-5, inclusive.

Notwithstanding the foregoing, Contractor may, to the extent authorized by the Owner, use award funds for any activity directly related to educating persons in a nonpartisan manner by providing factual information in a manner that is:

a. Made in a speech, article, publication, or other material that is distributed and made available to the public, or through radio, television, cable television or other medium of mass communication; and



b. Not specifically directed at:

- (1) Any member or employee of Congress, the Nevada Legislature or a local governmental entity responsible for enacting local legislation;
- (2) Any governmental official or employee who is or could be involved in a decision to sign or veto enrolled legislation; or
- (3) Any officer or employee of the United States Government, the State of Nevada, or a local governmental entity who is involved in introducing, formulating, modifying, or enacting a federal, state or local rule, regulation, executive order, or any other program, policy, or position of the United States Government, the State of Nevada or a local governmental entity.

The foregoing exceptions do not prohibit the Contractor from providing information that is directly related to the Contract.

ARTICLE FOUR – ACCESS TO RECORDS AND REPORTS

- I. The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Owner, any Federal agency with oversight authority over this Contract, the Comptroller General of the United States, or any of their duly authorized representative's access to any books, documents, papers, and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

ARTICLE FIVE – DISADVANTAGED BUSINESS ENTERPRISES (DBE)

State Revolving Fund Disadvantaged Business Enterprise Program

Section 1: Overview

As stipulated by the Environmental Protection Agency (EPA), Nevada State Revolving Fund (SRF) borrowers and their contractors are required to make good faith efforts to utilize businesses classified as Disadvantaged Business Enterprises (DBEs) for goods and services associated with SRF financed projects. A borrower and their contractors should utilize DBEs through prime contracting, subcontracting, joint-ventures, other business relationships, and through the procurement of supplies, materials, and equipment.



Section 2: Definition of Disadvantaged Business Enterprise (DBE)

A DBE is a business owned and/or controlled by socially and economically disadvantaged individuals including Minority and Women Business Enterprises.

Minority Business Enterprise (MBE) – A business which is at least 51% owned and/or controlled by one or more U.S. citizens who are Black, Hispanic, Portuguese, Asian American, American Indian, or groups found to be economically and socially disadvantaged by the U.S. Small Business Administration pursuant to Section 8(a) of the Federal Small Business Act.

Women Business Enterprise (WBE) – A business which is at least 51% owned and/or controlled by one or more U.S. citizens who are women.

Section 3: Disadvantage Business Enterprise (DBE) requirements and contract conditions

The following pages include conditions which must be included in all bidding and contract documents for SRF financed projects including:

- ✓ DBE related laws, rules, and regulations
- ✓ Equal Employment
- ✓ DBE Participation Goals
- ✓ Good Faith Effort for DBE Participation
- ✓ DBE Contract Terms and Conditions



Nevada State Revolving Fund

Disadvantaged Business Enterprise (DBE) and Contract Conditions

The DBE Solicitation and Contract Conditions must be physically included in all bidding and contract documents for SRF financed projects.

DBE Related Laws, Rules, and Regulations

This project is being financed in whole or in part by the Nevada State Revolving Fund (SRF). The borrower is required to comply with the following laws, rules and regulations and must ensure that their contractor(s) also comply with these laws, rules, and regulations.

1. Ensures access to facilities or programs regardless of race, color, national origin, sex, age or handicap: Title VI of the Civil Rights Act of 1964 (P.L 88-352, Section 504 of the Rehabilitation Act, P.L. 93-112 (87 Stat. 355, 29 U.S.C. Sec. 794), Older Americans Act (P.L. 94-135, 89 Stat. 713, 89 Stat. 728 Sec. 303, 42 U.S.C. 6102).
2. Encourages recipients of federal funds to award construction, supply and professional service contracts to minority and women's business enterprises (MBE/WBE) and small businesses and requires recipients to utilize affirmative steps in procurement: Executive Orders 11625, 12138 and 12432; Section 129 of P. L. 100-590 Small Businesses Reauthorization & Amendment Act of 1988; Public Law 102-389 (42 U.S.C. 4370d); a 1993 appropriations act ("EPA's 8% statute"); Title X of the Clean Air Acts Amendments of 1990 (42 U.S.C. 7601 note) ("EPA's 10% statute").
3. Prohibits entering into contracts or sub-contracts with individuals or businesses who are debarred or suspended: Executive Order 12549, 3 CFR, 189 and 40 CFR Part 32. Borrowers are required to check the status of all contractors (construction and professional services) and must require contractors to check the status of subcontractors for contracts expected to be equal to or over \$25,000. Information on debarment is available at the following website: www.sam.gov.
4. 40 CFR Part 33 Participation by Disadvantaged Business Enterprises in Procurement under Environmental Protection Agency (EPA) Financial Assistance Agreements.
5. Prohibits discrimination by federal contractors and subcontractors for reasons of race, color, religion, sex, and national origin: Equal Employment Executive Order 11246, as amended by Executive Orders 11375 and 12086 and subsequent regulations. Inclusion of the seven clauses (located below in the Equal Employment section) from Section 202 of E. O. 11246 as amended by E.O. 11375 and 12086 are required in all project related contracts and subcontracts over \$10,000.



Equal Employment (must be included in all contracts over \$10,000) During the performance of this contract, the contractor agrees as follow:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.



7. The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

DBE Participation Goals

Borrowers and their prime contractors must follow and document good faith efforts to meet the DBE Participation Goals listed below:

Goods or Services	MBE Participation Goal	WBE Participation Goal
Construction	2%	2%
Equipment	1%	1%
Services	1%	2%
Supplies	1%	1%

The DBE Participation Goals are not quotas – SRF will not penalize a borrower and their contractors if they cannot meet the goals. However, SRF will require a borrower and their contractors to make a good faith effort to meet these goals.

Good Faith Effort for DBE Participation

EPA defines “Good Faith Effort” to include, at a minimum, the following actions by a borrower and their contractors and sub-contractors:

1. Include DBEs on solicitation lists.
2. Assure that DBEs are solicited once they are identified.
3. Divide total requirements into smaller tasks to permit maximum DBE participation, where feasible. Encourage the joint submission of bids by multiple DBE businesses.
4. Establish delivery schedules which will encourage MBE/WBE participation, where feasible.
5. Encourage use of the services of the Small Business Administration (SBA) and the Minority Business Development Agency of the Department of Commerce (MBDA) OR State/Regional/Local equivalent.



6. Require that each party to a subgrant, subagreement, or contract award take the good faith efforts outlined.

DBE Contract Terms and Conditions

The following conditions must be included in all procurement contracts entered into by the borrower and their contractors and subcontractors for SRF financed projects:

1. The prime contractor must pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the loan recipient.
2. The prime contractor must document its efforts towards meeting the six "Good Faith Efforts for DBE Participation" even if the prime contractor has achieved its fair share objectives.
3. The prime contractor must notify the loan recipient in writing prior to the termination of any DBE subcontractor for convenience by the prime contractor.
4. If a DBE subcontractor fails to complete work under the subcontract for any reason, the prime contractor must employ the six "Good Faith Efforts for DBE Participation" if soliciting a replacement subcontractor.
5. All DBE procurements whether from bid documents or subsequent draw request are to be **reported on form 5700-52A to the SRF.**
6. The prime contractor must submit **Form 6100-4 – DBE Subcontractor Utilization** to the borrower as part of bid proposals.
7. The prime contractor must ensure DBE subcontractors submit **Form 6100-3 – DBE Subcontractor Performance**. In turn, the prime contractor submits the forms to the borrower.
8. The prime contractor must provide **Form 6100-2 – DBE Subcontractor Participation** to DBE subcontractors. DBE subcontractors may submit Form 6100-2 to:

DBE/MBE/WBE Coordinator
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
(PMD-1) San
Francisco, CA 94105



Report	Provided By:	Completed By:	Submitted To:	Exhibit
DBE Reporting Form 5700-52A Part II	SRF/CITY OF ELKO	Borrower	SRF- City of Elko	22 Appendix-A
Form 6100-4	Borrower	Prime Contractor	Borrower	23 Appendix-B
Form 6100-3	Prime Contractor	Sub-Contractor	Borrower	24 Appendix-C
Form 6100-2	Prime Contractor	Sub-Contractor	EPA, Region 9- City of Elko	25 Appendix-D

8. Each procurement contract signed must include the following term and condition:

“The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.”



Disadvantaged Business Enterprise Utilization Guidance to Borrowers and Prime Contractors

Sources to Identify and Certify DBEs

Source	Phone	Website/E-mail
Nevada Department of Transportation Civil Rights Program (DBE assistance list)	External Civil Rights and Contract Compliance-Nevada Unified Certification Program	http://nevadadbe.com
Nevada Department of Transportation DBE Program		http://nevadadot.com/nevadadBE/dbe.aspx
Nevada Governor's Office of Economic Development – Procurement Outreach	800-336-1600	http://diversifynevada.com/programs-rces/procurement-outreach
Nevada Small Business Development Center (NSBDC)	800-240-7094 DBE assistance 775-687-9921	http://dbe.nsbdc.org/
Hispanic Business Nevada		http://hispanicbusinessnevada.com/
US Environmental Agency Small Business Program		http://www.epa.gov/osbp/dbe_team.htm
US Small Business Admin. (SBA)		http://www.sba.gov/
Minority Business Agency-US Dept. of Commerce		http://www.mbda.gov/



ARTICLE SIX – ENERGY CONSERVATION REQUIREMENTS

Contractor shall comply, and shall ensure that all subcontractors comply, with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6201 et seq).

ARTICLE SEVEN – INTENTIONALLY OMITTED

ARTICLE EIGHT – TRADE RESTRICTION CERTIFICATION

Contractor certifies that it:

- I. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
- II. has not knowingly entered into any contract or subcontract for his project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
- III. has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, USC, Section 1001.

The Contractor must provide immediate written notice to the Owner if the Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances. Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subcontractor:



- who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR or
- whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or
- who incorporates in the public works project any product of a foreign country on such USTR list;

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The "Offeror" agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by U.S.T.R, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

ARTICLE NINE- VETERAN'S PREFERENCE

In the employment of labor (excluding executive, administrative, and supervisory positions), the contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 U.S.C. 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.



ARTICLE TEN- DAVIS BACON REQUIREMENTS

I. Introduction

The Davis Bacon Act requires that all contractors and subcontractors performing construction, alteration and repair (including painting and decorating) work under federal or District of Columbia contracts in excess of \$2,000, pay their laborers and mechanics not less than the prevailing wage and fringe benefits for the geographic location. Davis Bacon requirements may be extended to federal financial assistance programs by the terms of other statutes (collectively referred to in this guidance as Davis Bacon and Related Acts (DBRA)) establishing or funding the programs. [[Compliance Assistance By Law - The Davis-Bacon and Related Acts \(DBRA\)](#)]. Examples of DBRA at EPA include section 104(g) of CERCLA (Superfund) and Division A, Title XVI, section 1606 of the American Recovery and Reinvestment Act of 2009 (Recovery Act).

EPA assistance agreements subject to DBRA include Terms and Conditions that identify the responsibilities of a recipient for complying with DBRA.

EPA, under regulations in 29 CFR 5.5 [[Electronic Code of Federal Regulations](#):] must ensure that its grant recipients and sub-recipients otherwise subject to the Davis-Bacon provisions must comply with the following:

- 1. Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

A. "Wage determination" is the listing of wage and fringe benefit for each *classification* of laborers and mechanics which the Administrator of the Wage and Hour Division of the U.S. Department of Labor has determined to be prevailing in a given area for a particular type of construction (e.g., building, heavy, highway, or residential).

The wage determination (including any additional classification and wage rates) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the



contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

<http://www.dol.gov/esa/whd/regs/compliance/posters/fedprojc.pdf>

2. Withholding. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the regulations, the loan or grant recipient may, after written notice to the Contractor, sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. The contractor shall submit weekly for each week in which any contract work is performed, a copy of all payrolls to the recipient, sponsor, or owner. The required weekly payroll information may be submitted in any form desired. A contractor may use Form WH-347 which is available from the Wage and Hour Division web site at: <http://www.dol.gov/esa/whd/forms/wh347.pdf>

4. Subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with the requirements above, the requirements identified in the Davis Bacon Terms and Conditions of the EPA assistance agreement, and the contract clauses in 29 CFR 5.5.

B. Contract Work Hours and Safety Standards Act. In any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act, the following clauses shall apply:

1. Overtime requirements. No contractor or subcontractor for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. The overtime rate of time and one half does not apply to fringe payments. For work in excess of forty hours, fringe payments should continue to be paid on a per hour worked basis.



2. Withholding for unpaid wages and liquidated damages. The recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (B) (2) of this section.

3. Subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (B) (1) through (4) of this section.

C. In any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract.

D. In any contract subject to the Super Fund Program, the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of ten years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. If however, there is litigation, claims, negotiations, audits, cost recovery or other action involving the records, then the contractor or subcontractor must retain the records until the issue related to the records is resolved (which may be longer than ten years).

II. Applicability to EPA Programs

A. Brownfields Direct Cleanup and Revolving Loan Fund Grants.

1. Sites contaminated with hazardous substances. All construction, alteration and repair activity involving the remediation of hazardous substances, including excavation and removal of hazardous substances, construction of caps, barriers, structures which house treatment equipment, and abatement of contamination in buildings, is subject to DBRA.



2. Sites contaminated with Petroleum. DBRA prevailing wage requirement apply when the project includes:

- a)** Installing piping to connect households or businesses to public water systems or replacing public water system supply well(s) and associated piping due to groundwater contamination;
- b)** Soil excavation/replacement when undertaken in conjunction with the installation of public water lines/wells described above; or
- c)** Soil excavation/replacement, tank removal, and restoring the area by paving or pouring concrete when the soil excavation/replacement occurs in conjunction with both tank removal and paving or concrete replacement.

Other cleanup activities at Brownfields sites contaminated by petroleum such as in situ remediation, and soil excavation/replacement and tank removal when not in conjunction with paving or concrete replacement, will normally not trigger DBRA requirements. Unique situations at a site (e.g. unusually extensive excavation or construction of permanent facilities to house pumps and treatment equipment) may trigger DBRA requirements.

B. Leaking Underground Storage Tank (LUST) Program Grants to States.

DBRA applies to LUST agreements when construction contracts are issued by states for: a) Installing piping to connect households or businesses to public water systems or replacing public water system supply well(s) and associated piping due to groundwater contamination, b) Soil excavation/replacement when undertaken in conjunction with the installation of public water lines/wells described above, or c) Soil excavation/replacement, tank removal, and restoring the area by paving or pouring concrete when the soil excavation/replacement occurs in conjunction with both tank removal and paving or concrete replacement. DBRA may also apply in unique circumstances such as LUST sites that require unusually extensive excavation or construction of permanent facilities to house pump and treatment equipment to remove groundwater contamination.

C. DBRA may apply to Superfund Cooperative agreements made to states, critical subdivisions, and tribes. Superfund projects may involve construction contracts; work with OGC/ORC to define specific applications.



D. EPA awards Diesel Emission Reduction Act Grants to eligible entities for projects that may involve construction.

Recipients, sub grantees, and borrowers using DERA funding for the projects listed above must comply with the Davis Bacon prevailing wage requirements. Most other DERA funded activities, such as other retrofit, repower, and replacement projects do not trigger DBA requirements. If the recipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the recipient must discuss the situation with EPA before authorizing work on that site.

E. EPA awards (CWSRF and DWSRF) capitalization grants to states, which provides loans to municipalities and other eligible entities for eligible projects, including wastewater/drinking water infrastructure projects, estuary projects, and non-point source projects. Under the ARRA, states may also provide grants to eligible entities for these purposes. The EPA has determined that Davis-Bacon prevailing wage requirements apply to the construction, alteration, and repair activity of infrastructure, including all construction, alteration and repair activity involving waste water or drinking water treatment plants that are funded in part or in whole by ARRA funds. All other construction, alteration, and repair activity of infrastructure that is funded through the SRFs ARRA funds, including "Green" projects, non-point source projects, and estuary projects are also subject to DB. If a sub-recipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the sub-recipient must discuss the situation with the recipient state before authorizing work on that site. For sub-recipients that are not governmental entities receiving ARRA assistance under the SRF programs, Davis-Bacon prevailing wage requirements apply to the construction, alteration, and repair activity of infrastructure, including all construction, alteration and repair activity involving waste water or drinking water treatment plants. All other construction, alteration, and repair activity of infrastructure that is funded through the SRFs ARRA funds, including "Green" projects, non-point source projects, and estuary projects are also subject to DB. If a sub-recipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the sub-recipient must discuss the situation with the recipient state before authorizing work on that site.

4. Subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (B) (1) through (4) of this section.



III. Davis Bacon Compliance Procedures

A. Before Contract Award. Once it is determined that Davis Bacon wage rates will apply to a construction contract, the recipient's contracting organization must state in the solicitation that Davis Bacon Prevailing wage rates are applicable and

bid packages must include the current Davis Bacon general wage determination for the area where construction will occur.

To select the prevailing wage rate determination for a specific locality, go to website <http://www.wdol.gov/>

IV. Apprentices and Trainees

A. Apprentices. Apprentices will be permitted to work at less than the re-determined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractors registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the



applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

B. Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training

Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

C. Equal Employment Opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.



V. Compliance with Copeland Act Requirements. The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

VI. Contract Termination: Debarment. A breach of the contract clauses in paragraphs 11.1 through 11.10 of this section may be grounds for termination of the contract, and for debarment as a Contractor and a subcontractor as provided in 29 CFR 5.12.

VII. Disputes Concerning Labor Standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6 and 7.

Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

VII. Certification of Eligibility.

A. By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

B. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

C. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

ARTICLE ELEVEN– EQUAL OPPORTUNITY CLAUSE AND SPECIFICATIONS

EQUAL OPPORTUNITY CLAUSE. During the performance of this Contract, the Contractor agrees as follows:

I. the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion,



or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

II. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

III. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

IV. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

V. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

VI. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

VII. The Contractor will include every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in



the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS.

VIII. As used in these specifications:

A. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

B. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;

C. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;

D. "Minority" includes:

1. Black (all) persons having origins in any of the Black African racial groups not of Hispanic origin);
2. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South America, or other Spanish culture or origin regardless of race);
3. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
4. American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

IX. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.



X. If the Contractor is participating (pursuant to 41 CFR part 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors shall be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

XI. The Contractor shall implement the specific affirmative action **standards provided in paragraphs 12.14a through 12.14p of these specifications.** The goals set forth in the solicitation from which this Contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction Contractors performing construction work in a geographical area where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

XII. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the Contractor has a collective bargaining agreement to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246 or the regulations promulgated pursuant thereto.

XIII. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the Contractor during the training period and the Contractor shall have made a commitment to employ the apprentices and trainees at the completion of their



training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U.S. Department of Labor.

XIV. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:

A. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

B. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

C. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore along with whatever additional actions the Contractor may have taken.

D. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or female sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

E. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading



programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 12.8b above.

F. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

G. Review, at least annually, the Company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

H. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and subcontractors with whom the Contractor does or anticipates doing business.

I. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students; and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

J. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable provide after school, summer, and



vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.

K. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.

L. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

M. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

N. Ensure that all facilities and company activities are non-segregated except that separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

O. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction Contractors and suppliers, including circulation of solicitations to minority and female Contractor associations and other business associations.

P. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

XV. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (12.14a through 12.14p). The efforts of a Contractor association, joint Contractor union, Contractor community, or other similar groups of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 12.14a through 12.14p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the



Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

XVI. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, if the particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally,) the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized.

XVII. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

XVIII. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

XIX. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order

11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

XX. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 12.14 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41CFR part 60-4.8.

XXI. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status



(e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.

XXII. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program.

ARTICLE TWELVE –PROHIBITION AGAINST SEGREGATED FACILITIES

A. The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a

breach of this clause is a violation of the Equal Employment Opportunity clause in this contract.

B. “Segregated facilities,” as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

C. The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Employment Opportunity clause of this contract.



**ARTICLE THIRTEEN– NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION
TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY**

I. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

II. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Timetables:

-Goals for minority participation for each trade: 9.20% (Vol.45 Federal Register pg. 65984 10/3/80 [Participation Goals for Minorities and Females](#))

Goals for female participation in each trade: 6.9%

These goals are applicable to all of the Contractor's construction work (whether or not it is Federal or federally-assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of

minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project, for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

III. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification



number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

IV. As used in this notice and in the contract resulting from this solicitation, the "covered area" is the City of Elko, Elko County, in the State of Nevada.

ARTICLE FOURTEEN—TERMINATION OF CONTRACT

I. TERMINATION FOR CONVENIENCE

In addition to and without in any way limiting any other rights and remedies set forth in the Contract, the Owner may terminate this contract in whole or in part at any time by providing written notice to the Contractor. Such action may be without cause and without prejudice to any other right or remedy of Owner. Upon receipt of a written notice of termination, except as explicitly directed by the Owner, the Contractor shall immediately proceed with the following obligations regardless of any delay in determining or adjusting amounts due under this clause:

- A.** Contractor must immediately discontinue work as specified in the written notice.
- B.** Terminate all subcontracts to the extent they relate to the work terminated under the notice.
- C.** Discontinue orders for materials and services except as directed by the written notice.
- D.** Deliver to the Owner all fabricated and partially fabricated parts, completed and partially completed work, supplies, equipment and materials acquired prior to termination of the work and as directed in the written notice.
- E.** Complete performance of the work not terminated by the notice.
- F.** Take action as directed by the Owner to protect and preserve property and work related to this contract that Owner will take possession.
- G.** Owner agrees to pay Contractor for:
 - a.** completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
 - b.** documented expenses sustained prior to the effective date of termination in performing work and furnishing labor, materials, or equipment as required by the contract documents in connection with uncompleted work;



- c. reasonable and substantiated claims, costs and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and
- d. reasonable and substantiated expenses to the Contractor directly attributable to Owner's termination action. Owner will not pay Contractor for loss of anticipated profits or revenue or other economic loss arising out of or resulting from the Owner's termination action.

The rights and remedies this clause provides are in addition to any other rights and remedies provided by law or under this Contract.

ARTICLE FIFTEEN – DEBARMENT AND SUSPENSION

I. APPLICABILITY

The contract agreement that ultimately results from this solicitation is a “covered transaction” as defined by Title 2 CFR Part 180. Bidder must certify at the time they submit their proposal that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction. The bidder with the successful bid further agrees to comply with Title 2 CFR Part 1200 and Title 2 CFR Part 180, Subpart C by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction”.

II. CERTIFICATE OF OFFEROR/BIDDER REGARDING DEBARMENT

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

III. CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT

The successful bidder, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction”, must verify each lower tier participant of a “covered transaction” under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

- A. Checking the system for award management at website <http://www.sam.gov>
- B. Collecting a certification statement similar to the Certificate of Offeror/Bidder Regarding Debarment above.



- C. Inserting a clause or condition in the covered transaction with the lower tier contract
If the owner later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the owner may pursue any available remedies including suspension and debarment of the non-compliant participant.

ARTICLE SIXTEEN – CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

I. Overtime Requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such work week.

II. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) of this clause, the Contractor or any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

III. Withholding for Unpaid Wages and Liquidated Damages.

The Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any



liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this clause.

IV. Subcontractors.

The Contractor and subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this clause.

ARTICLE SEVENTEEN – CLEAN AIR AND WATER POLLUTION CONTROL

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. § 740-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA).

Contractor must include this requirement in all subcontracts that exceeds \$150,000.

ARTICLE EIGHTEEN – AIS (AMERICAN IRON AND STEEL)

American Iron & Steel Requirement for the Clean Water and Drinking Water State Revolving Funds

I. For CWSRF and DWSRF: On January 17, 2014, Public Law 113-76, the "Consolidated Appropriations Act, 2014," was enacted and included an American Iron and Steel requirement for the Clean Water and Drinking Water State Revolving Fund programs through the end of fiscal year 2014. Since then, the AIS requirement has continued for both programs, but through different statutes, with a few changes as described in the questions and answers provided below.

II. For CWSRF: On June 10, 2014, the Water Resources Reform and Development Act amended the Clean Water Act to include permanent requirements for the use of AIS products in CWSRF assistance agreements. Section 608 of the CWA now contains requirements for AIS that repeat those of the Consolidated Appropriations Act, 2014. All CWSRF assistance agreements must comply with Section 608 of the CWA for implementation of the permanent AIS requirement.

III. For DWSRF: On December 16, 2014, the President signed Public Law 113-235, the "Consolidated and Further Continuing Appropriations Act, 2015," which



provides fiscal year 2015 full-year appropriations through September 30, 2015. This law continues the requirement for the use of AIS products in DWSRF assistance agreements through September 30, 2015.

P.L. 113-76, Consolidated Appropriations Act, 2014 (Act), includes an "American Iron and Steel (AIS)" requirement in section 436 that requires Clean Water State Revolving Loan Fund (CWSRF) and Drinking Water State Revolving Loan Fund (DWSRF) assistance recipients to use iron and steel products that are produced in the United States for projects for the construction, alteration, maintenance, or repair of a public water system or treatment works if the project is funded through an assistance agreement executed beginning January 17, 2014 (enactment of the Act), through the end of Federal Fiscal Year 2014.

Section 436 also sets forth certain circumstances under which EPA may waive the AIS requirement. Furthermore, the Act specifically exempts projects where engineering plans and specifications were approved by a State agency prior to January 17, 2014.

The approach described below explains how EPA will implement the AIS requirement. The first section is in the form of questions and answers that address the types of projects that must comply with the AIS requirement, the types of products covered by the AIS requirement, and compliance. The second section is a step-by-step process for requesting waivers and the circumstances under which waivers may be granted.

The Act States:

Sec. 436. (a)(I) None of the funds made available by a State water pollution control revolving fund as authorized by title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or made available by a drinking water treatment revolving loan fund as authorized by section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12) shall be used for a project for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used in the project are produced in the United States.

(2) In this section, the term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(b) Subsection (a) shall not apply in any case or category of cases in which the Administrator of the Environmental Protection Agency (in this section referred to as the "Administrator") finds that—

(1) Applying subsection (a) would be inconsistent with the public interest;



(2) Iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) Inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the Administrator receives a request for a waiver under this section, the Administrator shall make available to the public on an informal basis a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet Web site of the Environmental Protection Agency.

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

(e) The Administrator may retain up to 0.25 percent of the funds appropriated in this Act for the Clean and Drinking Water State Revolving Funds for carrying out the provisions described in subsection (a)(I) for management and oversight of the requirements of this section.

(f) This section does not apply with respect to a project if a State agency approves the engineering plans and specifications for the project, in that agency's capacity to approve such plans and specifications prior to a project requesting bids, prior to the date of the enactment of this Act.

Covered Iron and Steel Products

For purposes of the CWSRF and DWSRF projects that must comply with the AIS requirement, an iron or steel product is one of the following made primarily of iron or steel that is permanently incorporated into the public water system or treatment works:

Lined or unlined pipes or fittings;

Manhole Covers;

Municipal Castings;

Hydrants;

Tanks;

Flanges;

Pipe clamps and restraints;

Valves;

Structural steel

Reinforced precast concrete; and

Construction materials



Municipal castings- are cast iron or steel infrastructure products that are melted and cast. They typically provide access, protection, or housing for components incorporated into utility owned drinking water, storm water, wastewater, and surface infrastructure.

They are typically made of grey or ductile iron, or steel. Examples of municipal castings are:

- Access Hatches;
- Ballast Screen;
- Benches (Iron or Steel);
- Bollards;
- Cast Bases;
- Cast Iron Hinged Hatches, Square and Rectangular;
- Cast Iron Riser Rings;
- Catch Basin Inlet;
- Cleanout/Monument Boxes;
- Construction Covers and Frames;
- Curb and Comer Guards;
- Curb Openings;
- Detectable Warning Plates;
- Downspout Shoes (Boot, Inlet);
- Drainage Grates, Frames and Curb Inlets;
- Inlets;
- Junction Boxes;
- Lampposts;
- Manhole Covers, Rings and Frames, Risers;
- Meter Boxes;
- Service Boxes;
- Steel Hinged Hatches, Square and Rectangular;
- Steel Riser Rings;
- Trash receptacles;
- Tree Grates;
- Tree Guards;
- Trench Grates; and
- Valve Boxes, Covers and Risers

Waiver Process

The statute permits EPA to issue waivers for a case or category of cases where EPA finds (1) that applying these requirements would be inconsistent with the public interest; (2) iron and steel products are not produced in the US in sufficient and reasonably



available quantities and of a satisfactory quality; or (3) inclusion of iron and steel products produced in the US will increase the cost of the overall project by more than 25 percent.

In order to implement the AIS requirements, EPA has developed an approach to allow for effective and efficient implementation of the waiver process to allow projects to proceed in a timely manner. The framework described below will allow States, on behalf of the assistance recipients, to apply for waivers of the AIS requirement directly to EPA Headquarters. Only waiver requests received from states will be considered.

Pursuant to the Act, EPA has the responsibility to make findings as to the issuance of waivers to the AIS requirements.

Definitions

The following terms are critical to the interpretation and implementation of the AIS requirements and apply to the process described in this memorandum:

Reasonably Available Quantity: The quantity of iron or steel products is available or will be available at the time needed and place needed, and in the proper form or specification as specified in the project plans and design.

Satisfactory Quality: The quality of iron or steel products, as specified in the project plans and designs.

Assistance Recipient: A borrower or grantee that receives funding from a State CWSRF or DWSRF program.

Step-By-Step Waiver Process

Application by Assistance Recipient Each local entity that receives SRF water infrastructure financial assistance is required by section 436 of the Act to use American made iron and steel products in the construction of its project. However, the recipient may request a waiver. Until a waiver is granted by EPA, the AIS requirement stands, except as noted above with respect to municipalities covered by international agreements.

The waiver process begins with the SRF assistance recipient. In order to fulfill the AIS requirement, the assistance recipient must in good faith design the project (where applicable) and solicit bids for construction with American made iron and steel products. It is essential that the assistance recipient include the AIS terms in any request for proposals or solicitations for bids, and in all contracts (see Appendix 3 for sample construction contract language). The assistance recipient may receive a waiver at any point before, during, or after the bid process, if one or more of three conditions is met:



1. Applying the American Iron and Steel requirements of the Act would be inconsistent with the public interest;
2. Iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
3. Inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

Proper and sufficient documentation must be provided by the assistance recipient. A checklist detailing the types of information required for a waiver to be processed is attached as Appendix 1.

Additionally, it is strongly encouraged that assistance recipients hold pre-bid conferences with potential bidders. A pre-bid conference can help to identify iron and steel products needed to complete the project as described in the plans and specifications that may not be available from domestic sources. It may also identify the need to seek a waiver prior to bid, and can help inform the recipient on compliance options.

In order to apply for a project waiver, the assistance recipient should email the request in the form of a Word document (.doc) to the State SRF program. It is strongly recommended that the State designate a single person for all AIS communications. The State SRF designee will review the application for the waiver and determine whether the necessary information has been included. Once the waiver application is complete, the State designee will forward the application to either of two email addresses. For CWSRF waiver requests, please send the application to: cwsrfwaiver@epa.gov. For DWSRF waiver requests, please send the application to: dwsrfwaiver@epa.gov

Evaluation by EPA

After receiving an application for waiver of the AIS requirements, EPA Headquarters will publish the request on its website for 15 days and receive informal comment. EPA

Headquarters will then use the checklist in Appendix 2 to determine whether the application properly and adequately documents and justifies the statutory basis cited for the waiver -- that it is quantitatively and qualitatively sufficient and to determine whether or not to grant the waiver.

In the event that EPA finds that adequate documentation and justification has been submitted, the Administrator may grant a waiver to the assistance recipient. EPA will notify the State designee that a waiver request has been approved or denied as soon as such a decision has been made. Granting such a waiver is a three-step process:



1. Posting- After receiving an application for a waiver, EPA is required to publish the application and all material submitted with the application on PA's website for 15 days. During that period, the public will have the opportunity to review the request and provide informal comment to EPA. The website can be found at: <http://water.epa.gov/grantsfunding/aisrequirement.cfm>

2. Evaluation - After receiving an application for waiver of the AIS requirements, EPA Headquarters will use the checklist in Appendix 2 to determine whether the application properly and adequately documents and justifies the statutory basis cited for the waiver-that it is quantitatively and qualitatively sufficient-and to determine whether or not to grant the waiver.

3. Signature of waiver approval by the Administrator or another agency official with delegated authority - As soon as the waiver is signed and dated, EPA will notify the State SRF program, and post the signed waiver on our website. The assistance recipient should keep a copy of the signed waiver in its project files.

Public Interest Waivers

EPA has the authority to issue public interest waivers. Evaluation of a public interest waiver request may be more complicated than that of other waiver requests so they may take more time than other waiver requests for a decision to be made. An example of a public interest waiver that might be issued could be for a community that has standardized on a particular type or manufacturer of a valve because of its performance to meet their specifications. Switching to an alternative valve may require staff to be trained on the new equipment and additional spare parts would need to be purchased and stocked, existing valves may need to be unnecessarily replaced, and portions of the system may need to be redesigned. Therefore, requiring the community to install an alternative valve would be inconsistent with public interest. EPA also has the authority to issue a public interest waiver that covers categories of products that might apply to all projects. EPA reserves the right to issue national waivers that may apply to particular classes of assistance recipients, particular classes of projects, or particular categories of iron or steel products. EPA may develop national or (US geographic) regional categorical waivers through the identification of similar circumstances in the detailed justifications presented to EPA in a waiver request or requests. EPA may issue a national waiver based on policy decisions regarding the public's interest or a determination that a particular item is not produced domestically in reasonably available quantities or of a sufficient quality. In such cases, EPA may determine it is necessary to issue a national waiver.



ARTICLE NINETEEN- COPELAND “ANTI-KICKBACK” ACT

Contractor must comply with the requirements of the Copeland “Anti-Kickback” Act (18USC 874 and 40 USC 3145), as supplemented by Department of Labor regulation 29 CFR part 3. Contractor and subcontractors are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Contractor and each Subcontractor must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week. Owner must report any violations of the Act to the Department of Labor.

ARTICLE TWENTY- FEDERAL FAIR LABOR STANDARDS ACT **(FEDERAL MINIMUM WAGE)**

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

ARTICLE TWENTY-ONE- OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor’s compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor-Occupational Safety and Health Administration.



ARTICLE TWENTY-TWO- DISTRACTED DRIVING

TEXTING WHEN DRIVING:

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) the owner encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 that involve driving a motor vehicle in performance of work activities associated with the project.

ARTICLE TWENTY-THREE- PROCUREMENT OF RECOVERED MATERIALS

Contractor and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor and subcontractors are to use of products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

1. The Contract requires procurement of \$10,000 or more of a designated item during the fiscal year;
2. Or, the contractor has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at:

www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products

Section 6002(c) establishes exceptions to the preference for recovery of EPA designated products if the contractor can demonstrate the item is:



- a) Not reasonably available within a time frame providing for compliance with the contract performance schedule;

- b) Fails to meet reasonable contract performance requirements; or c) Is only available at an unreasonable price.



5.0 EXHIBITS

EXHIBIT 1 - BID FORM (To Accompany Bid)

THIS FORM, FULLY COMPLETED, MUST BE USED FOR ALL BIDS

TO THE CITY OF ELKO, NEVADA:

The undersigned bidder hereby offers, in the amount stated in Exhibit 1 – Bid Form, to furnish all labor, materials, tools, equipment, apparatus, facilities, transportation, incidental items and permits (except as otherwise stated in the Contract Documents) for the construction of the Project, described as follows:

THE CITY OF ELKO

HOSPITAL SECOND SOURCE WATER LINE AND PRV PROJECT 2022

The bidder agrees that the work will be performed in accordance with the Contract Documents together with incidental items necessary to complete the work to be constructed in accordance with the Contract, any and all Exhibits to the Contract, Exhibit 16 – Technical Specifications, Exhibit 8 – Project Construction Plans and also in accordance with the *"Standard Specifications and Standard Details for Public Works Construction"*, 2016 Revised Edition, and amendments No. 1 – No. 9 (Orange Book) as adopted by the City of Elko, Nevada. Bidders shall provide their bid costs and properly fill out the following bid proposal form that ins included in **EXHIBIT 1 – BID FORM** as provided below, by the City of Elko, Nevada (as Owner) and the design engineer.

BID PROPOSAL FORM

Item No. & Work Description	Quantity	Unit	Unit Price	Bid Amount
1. Mobilization & Demobilization Labor, Equipment, and Materials to and from the Project Site @: _____ _____ _____ per Lump Sum Amount.	1	LS	LS	\$ _____
Item No. & Work Description	Quantity	Unit	Unit Price	Bid Amount



<p>2. Clear and Grub the proposed water transmission line alignment and area to receiver compacted fill soil and Riprap along Elko Mountain Way and Powder House Road @: _____ _____ Per Acre of Land Cleared and Grubbed.</p>	2.0	Ac.	\$ _____	\$ _____
<p>3. Soil Excavation (Cut) Required for the Grading of Powder House Road and Elko Mountain Way @: _____ _____ _____ Per Cubic Yard of Cut Soil.</p>	4,500	CY	\$ _____	\$ _____
<p>4. Provide, Place and Compact Soil Embankment for the Grading of Elko Mountain Way and Power House Road, as shown on Plan Sheets P01, P02 and P03 of the Project Construction Plans @: _____ _____ _____ Per Cubic Yard of Compacted Soil.</p>	4,300	CY	\$ _____	\$ _____
<p>5. Prepare the Elko Mountain Way and Powder House Road Subgrade Surface from Sta. 17+58.32 to Sta. 28+32 along Elko Mountain Way and from Sta. 10+00 to Sta. 13+30 on Power House Road by Fine Grading, Moisturizing and Compacting the Existing Soil Surface to a minimum depth of 6-Inches as shown on Sheets P01, P02 and P03 and Detail A on Sheet P02 @: _____ _____ _____ Per Square Yard of Surface Area Prepared.</p>	4,400	SY	\$ _____	\$ _____



Item No. & Work Description	Quantity	Unit	Unit Price	Bid Amount
6. Provide and Place Type 1, Class A, Gravel Base Material (8-Inch Compacted Depth) on Elko Mountain Way (Sta. 17+58.32 to Sta. 28+32) and Power House Road (Sta. 10+00 to Sta. 13+30) as shown on Plan Sheets P01, P02, P03 and on Detail A on Sheet P02 @: _____ _____ Per Cubic Yard Placed and Compacted.	1,200	CY	\$ _____	\$ _____
7. Prepare the Original Ground Slope Surface and Provide and Place 4-Inch Ø Rock Riprap (Class 150) for Erosion Protection on the 2:1 Slopes shown on Sheet P01 @: _____ _____ _____ Per Square Yard of Surface Area Placed.	1,150	SY	\$ _____	\$ _____
8. Construct Pipe Connection to the Existing 18-Inch Ø Ductile Iron Water Pipe including Pipe Fittings & Valves at Sta.14+25.32 in Errecart Boulevard, as show on the Project Plans @: _____ _____ _____ Per Lump Sum Amount	1	LS	\$ _____	\$ _____
9. Construct Pressure Reducing & Sustaining Valve Station at Sta. 14+50 ± (Errecart Blvd.) with 10-Inch Ø High Flow PRV; 4-Inch Ø Low Flow PRV; Precast Concrete Vault; and Steel Bollards as shown on Sheet P01 and on Detail "N" on Sheet D04.1 @: _____ _____ _____ Per Lump Sum Amount.	1	LS	\$ _____	\$ _____
10. Construct Pressure Reducing & Sustaining Valve Station with Vault, High Flow and Low Flow Valves in parallel, and steel bollards on the 8-Inch Ø PVC water pipe serving Stitzel Road Properties, as shown on Plan Sheet P05 and Sheet D04.2 @: _____	1	LS	\$ _____	\$ _____



Item No. & Work Description	Quantity	Unit	Unit Price	Bid Amount
_____ _____ Per Lump Sum Amount.				
11. Provide and Install 30-Inch Ø by ½-inch wall thickness steel casing beneath SR227 Lamoille Highway for 18-inch Ø Restrained Joint Water Pipe, as shown on the Project Plans and as specified @: _____ _____ Per Linear Foot of Steel Casing Installed.	175	LF	\$ _____	\$ _____
12. Provide and Install 24-Inch Ø by 7/16-inch wall thickness steel casing beneath SR227 Lamoille Highway by “Boring and Jacking” methods for future 12-Inch Ø Sewer Pipe, as shown on the Project Plans and as specified @: _____ _____ Per Linear Foot of Steel Casing Installed.	170	LF	\$ _____	\$ _____
13. Provide and Install 18-Inch Ø Restrained Joint Water Pipe with Casing Support Spacers in the 30-inch Ø Steel Casing at SR227- Lamoille Highway, as specified and as shown on the Project Plans @: _____ _____ Per Linear Foot of Restrained Joint Water Pipe.	180	LF	\$ _____	\$ _____
14. Provide and Install 18-Inch Diameter AWWA C900 DR 18 (AWWA C900) PVC Water Pipe (CIOD), as shown on the Project Plans and as specified @: _____ _____ Per Linear Foot Installed.	2,760	LF	\$ _____	\$ _____
15. Provide and Install 10-Inch Diameter AWWA C900 DR 18 (AWWA C900) PVC Water Pipe (CIOD) at the intersection of Elko Mountain Way				



and Powder House Road (Sheets P02 and P03) @: _____ _____ _____ Per Linear Foot Installed.	10	LF	\$ _____	\$ _____
Item No. & Work Description	Quantity	Unit	Unit Price	Bid Amount
16. Provide and Install 8-Inch Diameter AWWA C900 DR 18 (AWWA C900) PVC Water Pipe (CIOD), as shown on the Project Plans and as specified @: _____ _____ _____ Per Linear Foot Installed.	950	LF	\$ _____	\$ _____
17. Provide & Install 18-inch Ø x 45-Degree Bends with Concrete Thrust Blocks at Sta. 14+82.09, Sta. 16+33, and Sta. 16+69.14 @: _____ _____ _____ Per Each Installed.	3	EA	\$ _____	\$ _____
18. Provide and Install 18-Inch Ø x 22.5-Degree Bends with Concrete Thrust Blocks at Sta. 18+50.93; Sta. 19+49.95; and Sta. 22+22.42 @: _____ _____ _____ Per Each Installed.	3	EA	\$ _____	\$ _____
19. Provide and Install 18-Inch Ø Flanged Cross with Valves, Pipe Fittings, and Thrust Blocks at Elko Mountain Way & Powder House Road - Sta. 26+07.43 (Plan Sheet P02) @: _____ _____ _____ Per Lump Sum Amount.	1	LS	LS	\$ _____
20. Provide all Materials and Construct 18-Inch Ø x 12-Inch Ø Connection to the Existing 18-Inch Ø Ductile Iron Water Transmission Pipe in Power				



House Road & Stitzel Road. Install a Flanged 18-Inch Ø Cross with Valves, Pipe Fittings, and Thrust Blocks at Sta. 24+13.96 as shown on Plan Sheet P05 @: _____ _____ _____ Per Lump Sum Amount.	1	LS	LS	\$ _____
Item No. & Work Description	Quantity	Unit	Unit Price	Bid Amount
21. Construct 8-Inch Ø Water Pipe Connection at Sta. 2+59 (Stitzel Road) and Connect to the Existing 8-Inch Ø PVC (C900) Water Pipe located at Stitzel Road and Chukar Lane @: _____ _____ _____ Per Lump Sum Amount.	1	LS	LS	\$ _____
22. Install Temporary Flush Valve Assemblies on the New Water Transmission Pipeline at Sta. 14+82.09 (Errecart Blvd.); Sta. 16+36; Sta. 26+07.43 (Elko Mountain Way); and Sta. 24+13.96 (Powder House Rd.) @: _____ _____ _____ Per Each Installed.	4	EA	\$ _____	\$ _____
23. Install Permanent Flush Valve Assembly on the New Water Transmission Pipeline at Sta. 16+36; Sta. (Elko Mountain Way) and Sta. 8+70 (Stitzel Road) @: _____ _____ _____ Per Each Installed.	2	EA	\$ _____	\$ _____
24. Install Air Release Valve Assemblies at the following locations: Sta. 14+46 (Errecart Blvd, 2-Inch Ø), Sta. 14+90 (Power House Road, 3-Inch Ø) and Sta. 6+35 (Stitzel Road, 1-Inch Ø), as shown on Plan Sheets P01, P03 and P05 @: _____ _____ _____	3	EA	\$ _____	\$ _____



_____ Per Each Installed				
25. Provide and Install 8-Inch Ø Tee, Two (2) 8-Inch Ø Gate Valves (FLG x MJ) with Valve Boxes, 1 – 8-Inch Ø 90-Degree Bend and Concrete Thrust Blocks at Station “S” 11+05.50 on Stitzel Road @: _____ _____ _____ Per Lump Sum Amount.	1	LS	LS	\$ _____
Item No. & Work Description	Quantity	Unit	Unit Price	Bid Amount
26. Provide and Install 8-Inch Ø Tee, 1 - 8-Inch Ø Gate Valve (FLG x MJ) with Valve Box, 1-90-Degree Bend and Concrete Thrust Blocks at Station “S” 11+75.50 on Stitzel Road @: _____ _____ _____ Per Lump Sum Amount.	1	LS	LS	\$ _____
27. Project Cleanup – Provide all Materials, Labor and Equipment required to clean up the Jobsite after completion of the Project Work, as specified @: _____ _____ _____ Per Lump Sum Amount.	1	LS	LS	\$ _____

TOTAL BASE BID AMOUNT (BID ITEMS NO. 1 – NO. 27) IN NUMBERS =
 \$ _____ .

TOTAL BASE BID AMOUNT (BID ITEMS NO. 1 – NO. 27) IN WRITTEN FORM =

BASE BID INSTRUCTIONS: The Base Bid and Alternate Bid amounts are to be stated in legible figures only and are the total amount bid for the entire contract work, including



all applicable taxes. Any alteration, erasure or change must be clearly indicated and initialed by the bidder. The bidder agrees that the following, without limitation, may, in the City's discretion,

constitute grounds for rejecting this bid as non-responsive: (1) one or more blanks are not filled in; (2) the bid form is not signed by an authorized representative of the bidder; (3) any words or figures are not legible; (4) there are discrepancies in the figures (to include arithmetical errors); (5) the bid is not submitted with a compliant bid bond; (6) the bidder supplies false information on this bid form; or (7) the bidder fails to provide information required by this bid form or Nevada law.

COMMUNICATIONS WITH CITY: All communications with the City regarding this Project until the time a contract is executed by the City shall be directed to the Office of the Elko City Clerk. In the event the City determines that a bidder has attempted to communicate with any City official or employee in violation of the preceding sentence, the City may, in its discretion, reject that bid (even after a Notice of Award has been issued) on the ground that rejection of the bid serves the public interest.

CERTIFICATION OF FAMILIARITY WITH PROJECT AND CONTRACT

REQUIREMENTS: The bidder certifies that it has inspected the location where the Project will be performed, has read and is thoroughly familiar with the Project and the Contract documents, and has received and thoroughly reviewed the following Addenda and/or other documents from the City in relation to this Project:

**BIDDER ACKNOWLEDGES RECEIPT OF THE ADDENDA
AND OTHER DOCUMENTS REFERENCED ABOVE!**

BID BOND: As a condition of the privilege to bid on this Project, the bidder shall submit with its bid a bid bond, executed by a surety company authorized to do business in the State of Nevada, in an amount equal to TEN PERCENT (10%) of the amount of the Base Bid plus all additive alternates. Should the bidder be awarded the contract and thereafter fail to enter into a written contract for the Project upon request by the City, the bidder shall thereupon forfeit and the City shall retain the full amount of the bid bond,



which shall be a penalty and not damages.

CONTRACTOR'S LICENSE: The bidder certifies that it holds a valid Nevada State Contractor's license, as follows:

LICENSE CLASSIFICATION: _____

LICENSE NUMBER: _____

CITY OF ELKO BUSINESS LICENSE: The bidder certifies that it holds a valid City of Elko Business License, as follows, or will obtain one prior to the time of Contract execution:

LICENSE TYPE: _____

LICENSE NUMBER: _____

RESOLUTION: If the bidder is a limited liability company or corporation, the bidder must include with its bid an appropriate resolution authorizing the signatory to this document to sign and submit this bid, and execute a contract for performance of the Project on behalf of the Limited Liability Company or Corporation.

EFFECT OF AWARD: An award constitutes conditional acceptance of a bid, subject to the City of Elko executing and delivering to the winning bidder a fully executed copy of the Public Works Contract. Prior to the delivery of a fully executed copy of the Public Works Contract, the Elko City Council may, in its discretion, decide to reject all bids and perform the work itself, rebid the Project or not proceed with the Project.

WINNING BIDDER: The winning bidder will be determined accordance with Chapter 338 of the Nevada Revised Statutes. The City reserves the right, in its sole discretion, to waive minor technical defects or irregularities in bids provided the waiver does not give a competitive advantage to one bidder over another.



PROTEST RIGHTS: Under Nevada law, a person who bids on a public works contract may file a notice of protest regarding the awarding of the contract with the authorized representative designated by the public body within five (5) business days after the date the recommendation to award a contract is issued by the public body or its authorized representative. Bidders are advised to consult Nevada Revised Statutes 338.142 for requirements applicable to protests of awards of public works contracts.

BIDDER INFORMATION AND SIGNATURE:

DATED this ____ day of _____, 20_____.

NAME OF BIDDER: _____

TYPE OF ENTITY (e.g., partnership, corporation):_____

COMPLETE ADDRESS AS SHOWN ON THE OFFICIAL WEBSITE OF THE NEVADA STATE CONTRACTOR’S BOARD (THIS ADDRESS WILL BE USED FOR ALL WRITTEN CORRESPONDENCE WITH THE BIDDER UNLESS OTHERWISE AUTHORIZED BY THE CITY):

AUTHORIZED SIGNATURE: _____

PRINT OR TYPE NAME: _____

OFFICIAL TITLE OR CAPACITY: _____

.....



**EXHIBIT 2 - BID PROPOSAL GUARANTEE
(To Accompany Bid Form)**

KNOW ALL MEN BY THESE PRESENTS, THAT WE, THE UNDERSIGNED,

_____, as PRINCIPAL,

And _____, as SURETY,

are hereby held and firmly bound unto the CITY OF ELKO, NEVADA, as OWNER in the penal sum of at least **ten (10%) percent** of the total amount of bid equal to:

(Written Form)

(Numbers) \$_____ for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

The condition of the above obligation is such that whereas the Principal is herewith submitting to the CITY OF ELKO, NEVADA, a certain Bid for the:

THE CITY OF ELKO

HOSPITAL SECOND SOURCE WATER LINE AND PRV PROJECT 2022

NOW, THEREFORE,

- (a) If the Principal shall not withdraw said Bid within thirty (30) calendar days after the opening of the same, or
- (b) If said Bid shall be rejected, or in the alternate,



(c) If said Bid shall be accepted and the Principal shall within **twenty (20) calendar days** after receipt of Notice of Award, execute and deliver a contract in the form of Contract specified in the Contract Documents (properly completed in accordance with said Bid) and shall furnish a bond with good and sufficient surety or sureties for his faithful performance of said Contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, then this obligation shall be void, otherwise the same shall remain in force and effect and the Principal and Surety will pay unto the Owner the penal sum hereof; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, 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 OWNER may accept such Bid; and said Surety does not hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers this _____ day of _____, 20____;

PRINCIPAL: _____

SURETY: _____

BY: _____

(SEAL)



EXHIBIT 3 - EXPERIENCE QUALIFICATIONS

(To Accompany Bid Form)

By signing this form, the Bidder verifies that he/she has been engaged in the contracting business under the present business name for the previous five (5) years.

The Bidder must have previous experience in work similar to the Project. In order to demonstrate this to the City, the Bidder must provide references and contract amounts for previous projects of similar type and complexity to the Project. These references and contract amounts must have been parties to the same contracts as Bidder with respect to projects of this type.

Similar Projects

YEAR	CONTRACT AMOUNT	TYPE OF WORK	LOCATION & FOR WHOM PERFORMED	CONTACT NAME	PHONE #

In addition to the above references (unless the same), the Bidder must list references and contract amounts for recent projects that have been satisfactorily completed, together with the corresponding information requested in the following table:



Recent Projects

YEAR	CONTRACT AMOUNT	TYPE OF WORK	LOCATION & FOR WHOM PERFORMED	CONTACT NAME	PHONE #

By signing this form, the Bidder verifies that he/she has never failed to satisfactorily complete a contract to which he/she was a party, except as follows (attached additional sheets if required):

The following is a list of property, plant and equipment owned by the Bidder which is definitely available for use on the proposed work if needed:

Attach additional sheets if required.

SIGNED: _____ DATE: _____



EXHIBIT 4 - DESIGNATION OF SUBCONTRACTORS

FIVE PERCENT LIST

NRS 338.141(1)(b)

(To Accompany Bid)

State law requires that the prime contractor on this project submit a "5% List" with his or her bid. The 5% List must include the name of the prime contractor and the name of each first tier subcontractor who will provide labor or a portion of the work for which the prime contractor and (if applicable) the first tier subcontractor will be paid an amount exceeding 5 percent of the prime contractor's total bid.

A PRIME CONTRACTOR BIDDING ON A PUBLIC WORK MUST INCLUDE HIS OR HER NAME ON THE 5% LIST!

IMPORTANT: A BID WITHOUT A TIMELY, COMPLETE AND CORRECT 5% LIST THAT COMPLIES WITH NRS 338.141 WILL BE AUTOMATICALLY DEEMED NOT RESPONSIVE!

The 5% List must also contain a description of the labor or portion of the work which the prime contractor will perform and which each first tier subcontract will provide to the prime contractor. In order to help you complete the 5% List, the City is providing you with this form.

IMPORTANT: THE PRIME CONTRACTOR MUST BE

INCLUDED ON THIS LIST OR THE BID WILL BE REJECTED!

IMPORTANT: IN ACCORDANCE WITH THE ORANGE BOOK, THE PRIME

CONTRACTOR MUST PERFORM AT LEAST 50% OF THE WORK!

Name of Prime Contractor/First Tier Subcontractor(s)	Contractor's License Number	Description of Labor or Work	Percentage of Work Done

(Use additional sheets if necessary)



ONE PERCENT LIST

**NRS 338.141(1)(b)(2)
 (To Accompany Bid)**

State law requires that if a prime contractor’s bid is one of the three lowest bids, within 2 hours after bid opening the prime contractor must submit a “1% List” if the prime contractor is employing a first tier subcontractor who will provide labor or a portion of the work who will not be paid an amount exceeding \$100,000.

IMPORTANT: A BID WITHOUT A TIMELY, COMPLETE AND CORRECT 1% LIST THAT COMPLIES WITH NRS 338.141 WILL BE AUTOMATICALLY DEEMED NOT RESPONSIVE!

The 1% List must contain the name and contractor’s license number of each first tier subcontractor who will provide labor or a portion of the work for which the first tier subcontractor will be paid 1 percent of the prime contractor's total bid or \$50,000, whichever is greater.

A prime contractor must include his or her name on the 1% List, together with:

- (1) a description of the labor or portion of the work that the prime contractor will perform; or
- (2) a statement that the prime contractor will perform all work other than that being performed by a subcontractor listed on the 5% List or the 1% List.

The 1% List must contain a description of the labor or portion of the work which each first tier subcontract will provide to the prime contractor. In order to help you complete the 1% List, the City is providing you with this form.

IMPORTANT: THE PRIME CONTRACTOR MUST BE INCLUDED ON THIS LIST!

IMPORTANT: IN ACCORDANCE WITH THE ORANGE BOOK, THE PRIME CONTRACTOR MUST PERFORM AT LEAST 50% OF THE WORK!

Name of Prime Contractor/First Tier Subcontractor(s)	Contractor License Number	Description of Labor or Work	Percentage of Work Done

(Use additional sheets if necessary)



EXHIBIT 5 - AFFIDAVIT OF NON-COLLUSION
(To Accompany Bid)

STATE OF _____)

)SS.

COUNTY OF _____)

I, _____ (Name of party signing this
affidavit and the

Proposal Form) _____ (Title), being duly sworn
to depose and

say:

That _____ (Name of person, firm,
association, or corporation) has not, either directly or indirectly, entered into
agreement, participated in any collusion, or otherwise taken any action in restraint of
free competitive bidding in connection with this contract.

Signature: _____

Title: _____

Sworn to before me this _____ day of _____, 20__.

Signature: _____

Title: _____

(SEAL)



**EXHIBIT 6 - CERTIFICATION OF BIDDER REGARDING PENALTIES FOR NON-COMPLIANCE WITH NEVADA PREVAILING WAGE REQUIREMENTS
(To Accompany Bid)**

The undersigned bidder, proposed contractor or subcontractor certifies and acknowledges that:

1. This contract is for a public work project as set forth in Nevada Revised Statutes Chapter 338.
2. Pursuant to NRS 338.060, a contractor engaged on public works shall forfeit, as a penalty to the public body on behalf of which the contract has been made and awarded to the contractor, not less than \$20 nor more than \$50 for each calendar day or portion thereof that each workman employed on the public work:
 - (a) Is paid less than the designated rate for any work done under the contract, by the contractor or any subcontractor under him.
 - (b) Is not reported to the City of Elko as required pursuant to NRS 338.070.
3. If a penalty is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney’s fees, may be recovered by the labor commissioner.

This project is estimated to be at or above the \$100,000 threshold and therefore requires that prevailing wages to be paid.

(Name of Bidder)

(Name and Title of Authorized Representative)

(Signature)

(Date)



EXHIBIT 7 - FRINGE BENEFIT PLAN, FUND OR PROGRAM DISBURSEMENT INFORMATION

CONTRACTOR: _____

CONTACT: _____ PHONE: _____

Classification _____

<u>Paid per hour</u>	<u>Name, Address and Telephone Number of Fund Manager</u>
----------------------	---

\$ _____ Vacation	_____

\$ _____ Health and Welfare	_____

\$ _____ Pension	_____

\$ _____ Apprentice/training	_____

\$ _____ Other	_____



Classification _____

Paid per hour

Name, Address and Telephone Number of
Fund Manager

\$ _____ Vacation

\$ _____ Health and Welfare

\$ _____ Pension

\$ _____ Apprentice/training

\$ _____ Other



CITY OF ELKO
1751 College Avenue, Elko, NV 89801
(775) 777-7100 * www.elkocity.com

EXHIBIT 8 - DRAWINGS
(PROJECT CONSTRUCTION DRAWINGS ATTACHED SEPERATELY)



EXHIBIT 9 - PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That we _____
(name of contractor)

are a _____
(corporation, partnership or individual)

hereinafter called "Principal" and _____
(Surety)

Of _____, State of _____,

Hereinafter called the "Surety", are held and firmly bound unto the CITY OF ELKO, of ELKO COUNTY, NEVADA, hereinafter called "Owner" in the penal sum of:

_____ Dollars

(Written Form)

(Numbers) \$_____ in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents for the faithful performance of a certain written Contract entered into between the Principal and the Owner, dated this _____ day of _____, 20____, a copy of which is incorporated herein by reference, and made a part hereof as if fully copied herein, for the construction of the :



“THE CITY OF ELKO HOSPITAL SECOND SOURCE WATER LINE AND PRV PROJECT”

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION ARE SUCH, that, if the Principal shall in all respects, well, truly and faithfully perform such contract and the Principals, duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the Owner, with or without notice to the Surety, and if the Principal shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the Owner from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, and if their Principal shall save, indemnify and keep harmless the Owner against all loss, damages, claims, liabilities, judgments, costs and expenses which may accrue against the Owner in consequence of the awarding of said Contract, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any wise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

PROVIDED, FURTHER, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in three (3) counterparts, each one of which shall be deemed an original, the _____ day of _____, 20____.

PRINCIPAL:_____

BY:_____

ADDRESS:_____



CITY, STATE & ZIP CODE _____

ATTEST:

PRINCIPAL SECRETARY: _____

(SEAL)

WITNESS AS TO PRINCIPAL: _____

ADDRESS: _____

CITY, STATE & ZIP CODE: _____

SURETY: _____

BY: _____

ATTORNEY-IN-FACT

ADDRESS: _____

CITY, STATE & ZIP CODE: _____



ATTEST:

SURETY SECRETARY: _____

(SEAL)

WITNESS AS TO SURETY: _____

ADDRESS: _____

CITY, STATE & ZIP CODE: _____

NOTE: Date of Bond must not be prior to date of Contract.

- (1) Correct Name of Contractor.
- (2) A Corporation, a Partnership or an Individual, as case may be.
- (3) Correct Name of Surety.

If Contractor in Partnership, all partners should execute bond.

IMPORTANT: Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Nevada.



EXHIBIT 10 - PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

That we _____
(name of contractor)

Are a _____
(corporation, partnership or individual)

hereinafter called "Principal" and _____
(Surety)

Of _____, State of _____,

hereinafter called the "Surety", are held and firmly bound unto the CITY OF ELKO, of ELKO COUNTY, NEVADA, hereinafter called "Owner" in the penal sum of:

_____ Dollars

(\$_____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that Whereas, the Principal entered into a certain contract with the Owner, dated the ____ day of _____, 20____, a copy of which is incorporated hereby by reference, and made a part hereof as if fully copied herein for the construction of the:



THE CITY OF ELKO

HOSPITAL SECOND SOURCE WATER LINE PROJECT 2022

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations supplying or furnishing labor or materials to the Principal, or to any of the Principals' subcontractors in the prosecution of the work provided for in said Contract, and any authorized extension or modification thereof, including but not limited to any amounts due for materials, supplies, lubricants, oil, gasoline, fuels, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by, to, or for Principal or subcontractor or subcontractors of the Principal, then this obligation shall be void; otherwise to remain in full force and effect.

The Principal and Surety hereby further bind themselves, their successors, heirs, executors, administrators, and assigns, jointly and severally, to repay the owner any sum which the owner may be compelled to pay as a result of non-payment for labor or material furnished for the work embraced by said Contract.

The Principal and Surety hereby further agree that not only said Owner may sue on this bond, but that subject to the provisions hereinafter set out, any individual, firm, partnership, association or corporation, (hereinafter called claimant), who has performed labor or furnished materials to or for the Principal or its subcontractor or subcontractors in the prosecution of the work provided for in the Contract for which this bond is given, and who has not been paid in full before the expiration of ninety (90) calendar days after the date on which the claimant performs the last of such labor or furnished the last of such materials for which the claimant claims payment, may bring an action on this bond in the claimant's own name to recover any amount due the claimant for such labor or materials, and may prosecute such action to final judgment and have execution on the judgment.

Provided, however, that any claimant who has a direct contractual relationship with any subcontractor of the Principal, but no contractual relationship, express or implied, with such Principal, may bring an action on this bond only:

A. If the claimant has within thirty (30) calendar days after furnishing the first of such materials or performing the first of such labor, served on the Principal a written notice which shall inform the Principal of the nature of the materials being furnished or to be furnished, or the labor performed or to be performed, and identifying the person contracting for such labor or materials and the site for the performance of such labor or furnishing such materials; and

B. After giving written notice to such principal within ninety (90) calendar days from the date on which the claimant performed the last of the labor or furnished the list of such materials for which the claimant claims payment.



Each written notice shall state with substantial accuracy the amount claimed and the name of the person for whom the work was performed or the material supplied, and shall be served by being sent by registered mail, postage prepaid, in an envelope addressed to such Principal at any place in which the Principal maintains an office or conducts business, or at the Principal's residence.

PROVIDED, FURTHER, that the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

PROVIDED, FURTHER, that no final settlement between the Owner and the Principal shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in three (3) counterparts, each one Of which shall be deemed an original, on this the _____ day of _____, 20____.

PRINCIPAL: _____

BY: _____

ADDRESS: _____

CITY, STATE & ZIP CODE: _____

ATTEST:

(SEAL)

PRINCIPAL SECRETARY _____



WITNESS AS TO PRINCIPAL: _____

ADDRESS: _____

CITY, STATE & ZIP CODE: _____

SURETY: _____

BY: _____

ATTORNEY-IN-FACT

ADDRESS: _____

CITY, STATE & ZIP CODE: _____

ATTEST:

SURETY SECRETARY: _____

(SEAL)

WITNESS AS TO SURETY: _____

ADDRESS: _____



CITY, STATE & ZIP CODE: _____

NOTE: Date of Bond must not be prior to date of Contract.

- (1) Correct Name of Contractor.
- (2) A Corporation, a Partnership or an Individual, as case may be.
- (3) Correct Name of Surety.

If Contractor in Partnership, all partners should execute bond.

IMPORTANT: Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Nevada.



EXHIBIT 11 - NOTICE OF AWARD

TO: _____ DATE: _____

_____ PROJECT: _____

YOU ARE HEREBY NOTIFIED that the City of Elko has accepted your bid for the above Project in the amount of \$_____, which amount includes the Additive Alternates identified in this Notice of Award.

Within **TWENTY (20)** calendar days of receipt this Notice of Award, you must complete, sign and deliver to the City of Elko: (1) this Notice of Award with the fully executed Acceptance of Notice; (2) the Public Works Contract, executed by a person authorized to sign on your behalf; (3) the Performance Bond; (4) the Payment Bond; and (5) evidence of all insurance required to perform the Project. If you fail to meet any of these requirements, the City of Elko will be entitled, in its discretion, to consider all of your rights arising out of its acceptance of your bid as abandoned and as a forfeiture of your Bid Bond, entitling the City of Elko to the full amount of the Bid Bond. The City of Elko will also be entitled to such other rights as may be allowed by law.

You are further advised that this Award constitutes conditional acceptance of your bid, subject to the City of Elko executing and delivering to you a fully executed copy of the Public Works Contract. Prior to the delivery of a fully executed copy of the Public Works Contract, the Elko City Council may, in its discretion, decide to reject all bids (including your bid) and perform the work itself, rebid the Project or not proceed with the Project.

If indicated below, the scope of this Project is subject to the following Additive Alternates (attach additional sheets if necessary):



ALTERNATE NUMBER	DESCRIPTION	AMOUNT



All communications with the City regarding this Project through the time a contract is executed by the City shall be directed to the Office of the Elko City Clerk. In the event the City determines that a bidder has attempted to communicate with any City official or employee in violation of the preceding sentence, the City may, in its discretion, reject that bid (even after a Notice of Award has been issued) on the ground that rejection of the bid serves the public interest.

DATED this ____ day of _____, 20____.

CITY OF ELKO

By: _____

Title: _____

ACCEPTANCE OF NOTICE

Receipt of this Notice of Award is hereby acknowledged this __ day of _____
20____.

CONTRACTOR (BIDDER): _____

AUTHORIZED SIGNATURE: _____

PRINTED NAME OF SIGNATORY: _____

TITLE OF SIGNATORY: _____



EXHIBIT 12 - NOTICE TO PROCEED

To _____ Date _____

PROJECT: CITY OF ELKO HOSPITAL SECOND SOURCE WATER LINE PROJECT

You are hereby notified to commence work in accordance with the Agreement dated the _____ day of _____, 20____, on or before the _____ day of _____, 20____, and you are to complete construction within **One Hundred Twenty (120) calendar days** from the written notification to proceed.

Contractor: _____

By: _____ Date: _____
Authorized Company Representative

Title: _____

Owner: CITY OF ELKO, NEVADA

By: _____ Date: _____

Title: _____

RETURN SIGNED COPY TO:

City of Elko
Clerk's Office
1751 College Avenue
Elko, Nevada 89801
Along with aforementioned document(s) requested.



**EXHIBIT 13- STANDARD SPECIFICATIONS AND DETAILS FOR PUBLIC WORKS
CONSTRUCTION (ORANGE BOOK), 2012 (Revision No. 7 and No. 8) and Portions
of the 2016 EDITION**

A hard copy of this document is not attached to the Contract. The complete document can be viewed at the following URL:

<http://rtcwashoe.wpengine.com/wp-content/uploads/2018/01/2016-Version-Revision-No.-9.pdf>



EXHIBIT 14 - GENERAL PROVISIONS

PROJECT SPECIFICATIONS:

The "*STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION*", 2016 Revised Edition, (Orange Book) as amended by the City of Elko shall be the Project Specifications. All sections shall apply except as specifically deleted or modified by these Supplementary Conditions or the Technical Specifications. Wherever these specifications refer to the agency, this reference shall mean the CITY OF ELKO and wherever these specifications refer to the Engineer, this reference shall mean **the City or authorized representative**.

LAWS, RULES, REGULATIONS, HEALTH, SAFETY AND OSHA TRAINING REQUIREMENTS:

Laws, Rules and Regulations

All workmanship and materials shall comply with all applicable laws, codes, rules and regulations, and the Contractor shall comply with all safety regulations which are applicable to his work, and particular attention for applicability shall be given to the United States Department of Labor Occupational Safety and Health Administration (OSHA) Standards, and the regulations of the State of Nevada in which the job is located. The responsibility for complying with all such laws, codes, rules and regulations, and safety standards shall be the responsibility of the Contractor. If the City is fined for any Contractor violations, these costs will be fully reimbursed by the Contractor.

Safety

In accordance with all OSHA safety regulations (29 CFR Part 1910 - 1926 inclusive) and the City of Elko's Safety and Confined Space programs, the Contractor shall be solely and completely responsible for conditions of the job site, including safety of all personnel and property during the performance of the work: to include supplying their personnel with proper personnel protective equipment (PPE), first aid kit, fire extinguishers, confined space equipment and air monitors, underground metal utility detectors, tools, necessary equipment and materials. This requirement will apply continuously and not be limited to normal working hours on City of Elko property.

The City will require of all Contractors the 30-hour supervisor and 10-hour employee

OSHA certification training in CFR 1926 Construction Safety and Health before the work begins. All Contractors shall be responsible for the required certified training on equipment, tools, confined space and safety training, PPE, etc. The Contractor will produce these training documents as requested by the City.



Health and Safety in Employment

All applicable provisions in NRS Chapter 618 shall be incorporated in the construction practices for all employees directly engaged in the completion of any City of Elko project(s).

Apprenticeship Utilization Act (Senate Bill 207 (2019)).

The following statutory provisions pertaining to the use of apprentices apply to public works contracts:

1. A contractor or subcontractor engaged in vertical construction who employs a worker on a public work pursuant to NRS 338.040 shall use one or more apprentices for at least 10 percent of the total hours of labor worked for each apprenticed craft or type of work to be performed on the public work for which more than three workers are employed.

2. A contractor or subcontractor engaged in horizontal construction who employs a worker on a public work pursuant to NRS 338.040 shall use one or more apprentices for at least 3 percent of the total hours of labor worked for each apprenticed craft or type of work to be performed on the public work for which more than three workers are employed.

3. On or after January 1, 2021, the Labor Commissioner, in collaboration with the State Apprenticeship Council, may adopt regulations to increase the percentage of total hours of labor required to be performed by an apprentice pursuant to subsection 1 or 2 of Senate Bill 207 by not more than 2 percentage points.

4. A contractor or subcontractor engaged on a public work is not required to use an apprentice in a craft or type of work performed in a jurisdiction recognized by the State Apprenticeship Council as not having apprentices in that craft or type of work.

5. The City may, upon the request of a contractor or subcontractor, submit a request to the Labor Commissioner to modify or waive the percentage of hours of labor provided by one or more apprentices required pursuant to subsection 1 or 2 for good cause. The City must submit such a request, before an advertisement for bids has been placed, the opening of bids or the award of a contract for a public work or after the public body has commenced work on the public work. Such a request must include any supporting documentation, including, without limitation, proof of denial of or failure to approve a request for apprentices pursuant to subparagraph (3) of paragraph (d) of subsection 10 of Senate Bill 207.

6. The Labor Commissioner shall issue a determination of whether to grant a modification or waiver requested by the City within 15 days after the receipt of such request. The Labor Commissioner may grant such a request if he or she makes a finding that there is good cause to modify or waive the percentage of hours of labor provided by



one or more apprentices required pursuant to subsection 1 or 2 of Senate Bill 207.

7. The City, a contractor or a subcontractor may request a hearing on the determination of the Labor Commissioner within 10 days after receipt of the determination of the Labor Commissioner. The hearing must be conducted in accordance with regulations adopted by the Labor Commissioner. If the Labor Commissioner does not receive a request for a hearing pursuant to subsection 8 of Senate Bill 207, the determination of the Labor Commissioner is a final decision for the purposes of judicial review pursuant to chapter 233B of NRS.

8. A contractor or subcontractor engaged on a public work shall enter into an apprenticeship agreement for all apprentices required to be used in the construction of a public work. If the Labor Commissioner granted a modification or waiver pursuant to subsection 7 of Senate Bill 207 because the Labor Commissioner finds that a request for apprentices was denied or the request was not approved within 5 business days as described in subparagraph (3) of paragraph (d) of subsection 10 of Senate Bill 207 and apprentices are later provided, then the contractor or subcontractor shall enter into an apprenticeship agreement for all apprentices later provided.

9. as used in Senate Bill 207:

(a) "Apprentice" means a person enrolled in an apprenticeship program recognized by the State Apprenticeship Council.

(b) "Apprenticed craft or type of work" means a craft or type of work for which there is an existing apprenticeship program recognized by the State Apprenticeship Council.

(c) "Apprenticeship program" means an apprenticeship program recognized by the State Apprenticeship Council.

(d) "Good cause" means:

(1) There are no apprentices available from an apprenticeship program within the jurisdiction where the public work is to be completed as recognized by the State Apprenticeship Council;

(2) The contractor or subcontractor is required to perform uniquely complex or hazardous tasks on the public work that require the skill and expertise of a greater percentage of journeymen; or

(3) The contractor or subcontractor has requested apprentices from an apprenticeship program and the request has been denied or the request has not been approved within 5 business days.

The term "good cause" does not include the refusal of a contractor or subcontractor to enter into an apprenticeship agreement pursuant to subsection 9 of Senate Bill 207.



(e) "Journeyman" has the meaning ascribed to it in NRS 624.260.

(f) "State Apprenticeship Council" means the State Apprenticeship Council created by NRS 610.030.



CITY OF ELKO
1751 College Avenue, Elko, NV 89801
(775) 777-7100 * www.elkocity.com

EXHIBIT 15 - SPECIAL OR SUPPLEMENTAL PROVISIONS



CITY OF ELKO
1751 College Avenue, Elko, NV 89801
(775) 777-7100 * www.elkocity.com

**EXHIBIT 16 - TECHNICAL SPECIFICATIONS
SEE AS SEPARATE LINK**



EXHIBIT 17 - PREVAILING WAGE RATES – ELKO COUNTY OR DAVIS-BACON

[State of Nevada Prevailing Wage](#)

[Davis Bacon Wages](#)



**EXHIBIT 18 – PREFERENTIAL BIDDER STATUS AFFIDAVIT
(To Accompany Bid)**

**PREFERENTIAL BIDDER STATUS AFFIDAVIT FOR BIDS SUBMITTED IN
ACCORDANCE WITH NRS 338.0117 VALUED IN EXCESS OF \$250,000.00, ,
CONTRACTS INVOLVING CONSTRUCTION MANAGERS AT RISK, AND DESIGN-
BUILD CONTRACTS**

Although the City of Elko prefers this form is submitted with the bid response, this form may be submitted within two (2) hours of the bid opening.

Note: The Certificate of Eligibility for Preferential Bidder Status issued by the State Contractor’s Board must be submitted with the bid response.

I, _____ (“Affiant”), on behalf of _____ (“Contractor”), swear and affirm that in order to be in compliance with NRS 338.0117, and be eligible to receive a preference in bidding for Project No. _____, Project Name _____

_____ (“Project”), certify that for the duration of the project, collectively, and not on any specific day:

- a) At least 50 percent of the workers employed on the public work, including, without limitation, any employees of the contractor, applicant or design-build team and of any subcontractor engaged on the public work, will hold a valid driver’s license or identification card issued by the Department of Motor Vehicles of the State of Nevada;
- b) All vehicles used primarily for the public work will be:
 - 1. Registered and partially apportioned to Nevada pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to NRS 706.826; or,
 - 2. Registered in this State;
- c) If applying to receive a preference in bidding pursuant to subsection 3 of NRS 338.1727 or subsection 2 of NRS 408.3886, at least 50 percent of the design professionals working on the public work, including, without limitation, employees of the design-build team and of any subcontractor or consultant engaged in the design of the public work, will have a valid driver’s license or identification card issued by the Department of Motor Vehicles of the State of Nevada; and,
- d) The contractor, applicant or design-build team and any subcontractor engaged on the public work will maintain and make available for inspection within this State his or her records concerning payroll relating to the public work.

If the Contractor fails to comply with any requirement of this Affidavit, a public body may recover, by civil action against the party responsible for a failure to comply with a requirement of this affidavit, a penalty as described below for a failure to comply with a requirement of this affidavit. If a public body recovers a penalty pursuant to this subsection, the public body shall report to the State Contractors’ Board the date of the failure to comply, the name of each entity which failed to comply and the cost of the contract to which the entity that failed to comply was a



party. The Board shall maintain this information for not less than 6 years. Upon request, the Board shall provide this information to any public body or its authorized representative.

If a contractor, applicant or design-build team submits this affidavit, receives a preference in bidding described in this affidavit and is awarded the contract as a result of that preference, the contract between the contractor, applicant or design-build team and the public body, each contract between the contractor, applicant or design-build team and a subcontractor and each contract between a subcontractor and a lower tier subcontractor must provide that:

- a) If a party to the contract causes the contractor, applicant or design-build team to fail to comply with a requirement of this affidavit, the party is liable to the public body for a penalty in the amount of 1 percent of the cost of the largest contract to which he or she is a party;
- b) The right to recover the amount determined pursuant to paragraph (a) by the public body pursuant to this affidavit may be enforced by the public body directly against the party that caused the failure to comply with a requirement of this affidavit; and,
- c) No other party to the contract is liable to the public body for a penalty.

By: _____ Title: _____
 (Print name of Affiant)

Signature of Affiant: _____ Date: _____

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

State of _____) _____
) (Notary Signature)
 STAMP & SEAL

County of _____)



Proof of Authorization to Sign Affidavit

The person must establish his/her actual authority to act on behalf of the business organization. The individual must be the person indicated in the table below and provide written documentation clearly indicating the person’s position within that business organization. If the individual signing the Affidavit is an employee of the business organization, written documentation, on organization letterhead, clearly indicating the person’s authority to act on behalf of the business organization must be provided. The written documentation must be signed by the authorized person identified on the table.

If the individual making application for the business organization is not one of the persons identified in the table or an authorized employee, a valid power of attorney executed by an authorized person on behalf of the business organization must be provided. The power of attorney must be made not more than 90 days before the Affidavit is signed.

BUSINESS ENTITY	PERSON WHO HAS AUTHORITY TO COMPLETE AFFIDAVIT
Sole Proprietorship	Sole Proprietor
Partnership	A Partner
Corporation	1. Director, if authorized 2. Executive Officer as indicated in the Article of Incorporation
Limited Liability Company	1. Member, if Member-Managed LLC 2. Manager, if Manager-Managed LLC



**EXHIBIT 19 - CERTIFICATION NOT TO ENGAGE IN BOYCOTT OF ISRAEL
(NRS 332.065)**

(Must Accompany Contract Documents)

The undersigned contractor hereby certifies that he/she/it is not currently engaged in, and agrees for the duration of the contract not to engage in, a boycott of Israel.

1. "Boycott of Israel" means, except as otherwise provided in subsection 2, refusing to deal or conduct business with, abstaining from dealing or conducting business with, terminating business or business activities with or performing any other action that is intended to limit commercial relations with:

(a) Israel; or

(b) A person or entity doing business in Israel or in territories controlled by Israel,

if such an action is taken in a manner that discriminates on the basis of nationality, national origin or religion.

2. The term "boycott of Israel" does not include an action that is described in subsection 1 if the action:

(a) Is based on a bona fide business or economic reason;

(b) Is taken pursuant to a boycott against a public entity of Israel if the boycott is applied in a nondiscriminatory manner; or

(c) Is taken in compliance with or adherence to calls for a boycott of Israel if that action is authorized in 50 U.S.C. § 4607 or any other federal or state law.

CONTRACTOR: _____

By: _____

Title: _____

Date: _____



**EXHIBIT 20 - CERTIFICATION OF BIDDER REGARDING PENALTIES FOR
NONCOMPLIANCE WITH NEVADA PREVAILING WAGE REQUIREMENTS**

The undersigned bidder, proposed contractor or subcontractor certifies that:

1. This contract is for a public work project as set forth in Nevada Revised Statutes Chapter 338.
2. A contractor engaged on public works shall forfeit, as a penalty to the public body in behalf of which the contract has been made and awarded to the contractor, not less than \$20 nor more than \$50 for each calendar day or portion thereof that each workman employed on the public work:
 - (a) Is paid less than the designated rate for any work done under the contract, by the contractor or any subcontractor under him.
 - (b) Is not reported to the labor commissioner and the public body awarding the contract as required pursuant to NRS 338.070.
3. If a penalty is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the labor commissioner.

Name of Bidder

Name and Title of Authorized Representative

Signature

Date



EXHIBIT 21- CERTIFICATION OF BIDDER, PROPOSED CONTRACTOR OR SUBCONTRACTOR REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY OR VOLUNTARY EXCLUSION

The undersigned bidder, proposed contractor or subcontractor certifies, to the best of his knowledge and belief, that:

1. Neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this contract by any Federal department, agency, or program.
2. Neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in public works contracts by the Nevada Labor Commissioner.
3. Where either the bidder or subcontractor is unable to certify to any of the above statements, the bidder or subcontractor shall attach an explanation as to why a certification cannot be submitted.

Name of Bidder, Proposed Contractor or Subcontractor

Name and Title of Authorized Representative

Signature

Date



EXHIBIT 22- Nevada State Revolving Fund Disadvantaged Business Enterprise (DBE) and Contract Conditions

Because this Contract is being funded by the State Revolving Fund, the Contractor must comply with the following DBE Solicitation and Contract Conditions:

DBE Related Laws, Rules, and Regulations

This project is being financed in whole or in part by the Nevada State Revolving Fund (SRF). The City of Elko is required to comply with the following laws, rules and regulations and must ensure that its contractor(s) also comply with these laws, rules, and regulations.

1. Ensures access to facilities or programs regardless of race, color, national origin, sex, age or handicap: Title VI of the Civil Rights Act of 1964 (P.L 88-352, Section 504 of the Rehabilitation Act, P.L. 93-112 (87 Stat. 355, 29 U.S.C. Sec. 794), Older Americans Act (P.L. 94-135, 89 Stat. 713, 89 Stat. 728 Sec. 303, 42 U.S.C. 6102).
2. Encourages recipients of federal funds to award construction, supply and professional service contracts to minority and women's business enterprises (MBE/WBE) and small businesses and requires recipients to utilize affirmative steps in procurement: Executive Orders 11625, 12138 and 12432; Section 129 of P. L. 100-590 Small Businesses Reauthorization & Amendment Act of 1988; Public Law 102-389 (42 U.S.C. 4370d); a 1993 appropriations act ("EPA's 8% statute"); Title X of the Clean Air Acts Amendments of 1990 (42 U.S.C. 7601 note) ("EPA's 10% statute").
3. Prohibits entering into contracts or sub-contracts with individuals or businesses who are debarred or suspended: Executive Order 12549, 3 CFR, 189 and 40 CFR Part 32. Borrowers are required to check the status of all contractors (construction and professional services) and must require contractors to check the status of subcontractors for contracts expected to be equal to or over \$25,000. Information on debarment is available at the following website: www.sam.gov.
4. 40 CFR Part 33 Participation by Disadvantaged Business Enterprises in Procurement under Environmental Protection Agency (EPA) Financial Assistance Agreements.
5. Prohibits discrimination by federal contractors and subcontractors for reasons of race, color, religion, sex, and national origin: Equal Employment Executive Order 11246, as amended by Executive Orders 11375 and 12086 and subsequent regulations. Inclusion of the seven clauses (located below in the Equal Employment section) from Section 202 of E. O. 11246 as amended by E. O. 11375 and 12086 are required in all project-related contracts and subcontracts over \$10,000.

Equal Employment (must be included in all contracts over \$10,000)



During the performance of this Contract, the Contractor agrees as follow:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
3. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this Contract may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation



with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

DBE Participation Goals

The City of Elko and the Contractor must follow and document good faith efforts to meet the DBE Participation Goals listed below:

Goods or Services	MBE Participation Goal	WBE Participation Goal
Construction	2%	2%
Equipment	1%	1%
Services	1%	2%
Supplies	1%	1%

The DBE Participation Goals are not quotas – SRF will not penalize the City and the Contractor if they cannot meet the goals. However, SRF will require the City and the Contractor to make a good faith effort to meet these goals.

Good Faith Effort for DBE Participation

EPA defines “Good Faith Effort” to include, at a minimum, the following actions by the City and Contractor and its sub-contractors:

1. Include DBEs on solicitation lists.
2. Assure that DBEs are solicited once they are identified.
3. Divide total requirements into smaller tasks to permit maximum DBE participation, where feasible. Encourage the joint submission of bids by multiple DBE businesses.
4. Establish delivery schedules which will encourage MBE/WBE participation, where feasible.
5. Encourage use of the services of the Small Business Administration (SBA) and the Minority Business Development Agency of the Department of Commerce (MBDA) OR State/Regional/Local equivalent.
6. Require that each party to a subgrant, sub-agreement, or contract award take the good faith efforts outlined.

DBE Contract Terms and Conditions

The following conditions apply to this Contract:

1. The Contractor must pay its subcontractor(s) for satisfactory performance no more than 30 days from the Contractor’s receipt of payment from the City.
2. The Contractor must document its efforts towards meeting the six “Good Faith Efforts for DBE Participation” even if the Contractor has achieved its fair share objectives.



3. The Contractor must notify the City in writing prior to the termination of any DBE subcontractor for convenience by the Contractor.
4. If a DBE subcontractor fails to complete work under the subcontract for any reason, the Contractor must employ the six "Good Faith Efforts for DBE Participation" if soliciting a replacement subcontractor.
5. All DBE procurements whether from bid documents or subsequent draw request are to be reported on form 5700-52A to the SRF.
6. The Contractor must submit Form 6100-4 – DBE Subcontractor Utilization to the borrower as part of bid proposals.
7. The Contractor must ensure DBE subcontractors submit Form 6100-3 – DBE Subcontractor Performance. In turn, the Contractor submits the forms to the City.
8. The Contractor must provide Form 6100-2 – DBE Subcontractor Participation to DBE subcontractors. DBE subcontractors may submit Form 6100-2 to:

DBE/MBE/WBE Coordinator

U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street (PMD-1)
San Francisco, CA 94105



***EXHIBIT 23- DISADVANTAGED BUSINESS ENTERPRISE UTILIZATION
GUIDANCE TO BORROWERS AND PRIME CONTRACTORS***

Disadvantaged Business Enterprise Utilization

Guidance to Borrowers and Prime Contractors

Appendix B

Form 6100-4 – DBE Subcontractor Utilization

Each potential Contractor must submit Form 6100-4, as shown on the next page, to the City as part of its bid proposal.



OMB Control No: 2090-0030-Approved: 8/13/2013- Approval Expires: 8/31/2015
Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Utilization Form

This form is intended to capture the prime contractor's actual and/or anticipated use of identified certified DBE¹ subcontractors² and the estimated dollar amount of each subcontract. An EPA Financial Assistance Agreement Recipient must require its prime contractors to complete this form and include it in the bid or proposal package. Prime contractors should also maintain a copy of this form on file.

Prime Contractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Issuing/Funding Entity:			
I have identified potential DBE certified subcontractors	YES	NO	
If yes, please complete the table below. If no, please explain:			
Subcontractor Name/ Company Name	Company Address/ Phone/ Email	Est. Dollar Amt	Currently DBE Certified?
Continue on back if needed			

¹ A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.² Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



**Disadvantaged Business Enterprise (DBE) Program
 DBE Subcontractor Utilization Form**

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302 (c).

Prime Contractor Signature	Print Name
Title	Date

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.



**EXHIBIT 24- DISADVANTAGED BUSINESS ENTERPRISE UTILIZATION
GUIDANCE TO BORROWERS AND PRIME CONTRACTORS**

Disadvantaged Business Enterprise Utilization

Guidance to Borrowers and Prime Contractors

Appendix C

**Form 6100-3 – DBE Subcontractor
Performance**

The Contractor must require potential subcontractors to submit Form 6100-3, as show on the next page, as part of bid proposals. In turn, Contractors submit the data to the City.



**Disadvantaged Business Enterprise (DBE)
 Program DBE Subcontractor Performance Form**

This form is intended to capture the DBE¹ subcontractor's² description of work to be performed and the price of the work submitted to the prime contractor. An EPA Financial Assistance Agreement Recipient must require its prime contractor to have its DBE subcontractors complete this form and include all completed forms in the prime contractors bid or proposal package.

Subcontractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item Number	Description of Work Submitted to the Prime Contractor Involving Construction, Services, Equipment or	Price of Work
DBE Certified By: ___ DOT ___ SBA ___ Other: _____		Meets/ exceeds EPA certification standards? ___ YES ___ NO ___ Unknown

¹ A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

² Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



**Disadvantaged Business Enterprise (DBE) Program
 DBE Subcontractor Performance Form**

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302 (c).

Prime Contractor Signature	Print Name
Title	Date

Subcontractor Signature	Print Name
Title	Date

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

EPA FORM 6100-3 (DBE Subcontractor Performance Form)



***EXHIBIT 25- DISADVANTAGED BUSINESS ENTERPRISE UTILIZATION
GUIDANCE
TO BORROWERS AND PRIME CONTRACTORS***

Disadvantaged Business Enterprise Utilization

Guidance to Borrowers and Prime Contractors

Appendix D

Form 6100-2 – DBE Subcontractor Participation

The Contractor must provide subcontractors the opportunity to submit Form 6100-2, as shown on the next page, to:

DBE/MBE/WBE Coordinator
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
(PMD-1) San
Francisco, CA 94105



OMB Control No: 2090-0030 - Approved: 8/13/2013- Approval Expires: 8/31/2015

**Disadvantaged Business Enterprise (DBE) Program
 DBE Subcontractor Participation Form**

An EPA Financial Assistance Agreement Recipient must require its prime contractors to provide this form to its DBE subcontractors. This form gives a DBE¹ subcontractor² the opportunity to describe work received and/or report any concerns regarding the EPA-funded project (e.g., in areas such as termination by prime contractor, late payments, etc.). The DBE subcontractor can, as an option, complete and submit this form to the EPA DBE Coordinator at any time during the project period of performance.

Subcontractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item Number	Description of Work Received from the Prime Contractor Involving Construction, Services , Equipment or Supplies	Amount Received by Prime Contractor

¹ A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

² Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

EPA FORM 6100-2 (DBE Subcontractor Participation Form)



OMB Control No: 2090-0030
 Approved: 8/13/2013
 Approval Expires: 8/31/2015

**Disadvantaged Business Enterprise (DBE) Program
 DBE Subcontractor Participation Form**

Please use the space below to report any concerns regarding the above EPA-funded project:

Subcontractor Signature	Print Name
Title	Date

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.



EXHIBIT 26- EQUAL EMPLOYMENT OPPORTUNITY REPORT STATEMENT

Each bidder shall complete and sign the Equal Employment Opportunity Report Statement. A bid may be considered unresponsive and may be rejected, in the Owner’s sole discretion, if the bidder fails to provide the fully executed statement or fails to furnish the required data. The bidder shall also, prior to award, furnish such other pertinent information regarding its own employment policies and practices as well as those of its proposed subcontractors as the United States, the State of Nevada, or the Owner may require.

The bidder shall furnish similar statements executed by each of its first-tier and second-tier subcontractors and shall obtain similar compliance by each subcontractor, before awarding subcontracts. No subcontract shall be awarded to any non-complying subcontractor.

EQUAL EMPLOYMENT OPPORTUNITY REPORT STATEMENT

As Required in 41 CFR 60-1.7(b)

The bidder shall complete the following statements by checking the appropriate blanks. Failure to complete these blanks may be grounds for rejection of the bid:

1. The bidder has ___ has not ___ developed and has on file at each establishment affirmative action programs pursuant to 41 CFR 60-1.40 and 41 CFR 60-2.
2. The bidder has ___ has not ___ participated in any previous contract or subcontract subject to the equal opportunity clause prescribed by Executive order 11246, as amended.
3. The bidder has ___ has not ___ filed with the Joint Reporting Committee the annual compliance report on Standard Form 100 (EEO-1 Report).
4. The bidder does ___ does not ___ employ fifty or more employees.

Date: _____

Company Authorized Agent

Print Signature of Authorized

Agent



EXHIBIT 27- (AIS) AMERICAN IRON AND STEEL CERTIFICATION

Company Name: _____

Company Address: _____

City, State, Zip: _____

Subject: American Iron and Steel Step Certification for Project Number _____

I, _____, certify that the (melting, bending, coating, galvanizing, cutting, etc.) process for (manufacturing or fabricating) the following products and/or materials shipped or provided for the subject project is in full compliance with the American Iron and Steel requirement as mandated in EPA's State Revolving Fund Programs.

Item, Products and/or Materials:

Item, Products and/or Materials:

1. _____
2. _____
3. _____
4. _____
5. _____

Such process took place at the following location:

Signature: _____

Company Name: _____

Title: _____

Date: _____



EXHIBIT 28- (AIS) AMERICAN IRON AND STEEL WAIVER REQUEST PROCESS

Each local entity that receives CWSRF and/or DWSRF water infrastructure financial assistance is required to use American made iron and steel products in the construction of its project. However, if the recipient can justify a claim made under one of the categories below, a waiver may be granted. Until a waiver is granted by EPA, the AIS requirement must be adhered to as described in the Act.

How to Request a Waiver

General Steps:

1. Community prepares the waiver request and submits it to the State SRF. **The request should include project specifications for the product.**
2. State SRF reviews and submits the request to EPA.
 - CWSRF waiver requests can be submitted to cwsrfwaiver@epa.gov.
 - DWSRF waiver requests can be submitted to dwsrfwaiver@epa.gov.
3. EPA posts the waiver request for public comment for 15 days (see the [Waiver Requests Received by EPA](#) tab).
4. EPA provides a response and posts it on the website.
 - EPA's [implementation memorandum](#) on AIS requirements includes specific instructions for communities interested in applying for a waiver.
 - **View the [AIS Waiver Request Checklist for Assistance Recipients](#) for details on what should be included in a waiver request.**



EXHIBIT 29- (AIS) AMERICAN IRON AND STEEL CHECKLIST FOR WAIVER REQUEST

Instructions: To be completed by EPA. Review all waiver requests using the questions in the checklist, and mark the appropriate box as Yes, No or *N/A*. Marks that fall inside the shaded boxes may be grounds for denying the waiver. If none of your review markings fall into a shaded box, the waiver is eligible for approval if it indicates that one or more of the following conditions applies to the domestic product for which the waiver is sought:

1. The iron and/or steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality
2. The inclusion of iron and/or steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

Review Items	Yes	No	N/A	Comments
Cost Waiver Requests <ul style="list-style-type: none"> • Does the waiver request include the following information? <ul style="list-style-type: none"> – Comparison of overall cost of project with domestic iron and steel products to overall cost of project with foreign iron and steel products – Relevant excerpts from the bid documents used by the contractors to complete the comparison <ul style="list-style-type: none"> – A sufficient number of bid documents or pricing information from domestic sources to constitute a reasonable survey of the market • Does the Total Domestic Project exceed the Total Foreign Project Cost by more than 25%? 				
Availability Waiver Requests <ul style="list-style-type: none"> • Does the waiver request include supporting documentation sufficient to show the availability, quantity, and/or quality of the iron and/or steel product for which the waiver is requested? <ul style="list-style-type: none"> – Supplier information or other documentation indicating availability/delivery date for materials – Project schedule – Relevant excerpts from project plans, specifications, and permits indicating the required quantity and quality of materials • Does supporting documentation provide sufficient evidence that the contractors made a reasonable effort to locate domestic suppliers of materials, such as a description of the process for identifying suppliers and a list of contacted suppliers? • Based on the materials delivery/availability date indicated in the supporting documentation, will the materials be unavailable when they are needed according to the project schedule? (By item, list schedule date and domestic delivery quote date or other relevant information) • Is EPA aware of any other evidence indicating the non-availability of the materials for which the waiver is requested? Examples include: <ul style="list-style-type: none"> – Multiple waiver requests for the materials described in this waiver request, for comparable projects in the same State – Multiple waiver requests for the materials described in this waiver request, for comparable projects in other States – Correspondence with construction trade associations indicating the non-availability of the materials • Are the available domestic materials indicated in the bid documents of inadequate quality compared those required by the project plans, specifications, and/or permits? 				



**EXHIBIT 30- (AIS) AMERICAN IRON AND STEEL CONSTRUCTION
CONTRACT**

The Contractor acknowledges to and for the benefit of the City of Elko and the State of Nevada that it understands the goods and services under this Agreement are being funded with monies made available by the Clean Water State Revolving Fund and/or Drinking Water State Revolving Fund that have statutory requirements commonly known as "American Iron and Steel;" that requires all of the iron and steel products used in the project to be produced in the United States ("American Iron and Steel Requirement") including iron and steel products provided by the Contractor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Purchaser and the State that (a) the Contractor has reviewed and understands the American Iron and Steel Requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Purchaser or the State. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Purchaser or State to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Purchaser or State resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the State or any damages owed to the State by the Purchaser). While the Contractor has no direct contractual privity with the State, as a lender to the Purchaser for the funding of its project, the Purchaser and the Contractor agree that the State is a third-party beneficiary and neither this paragraph (nor any other

Provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the State.

Signature: _____

Company Name: _____

Title: _____

Date: _____



EXHIBIT 31- CERTIFICATION OF OFFEROR/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark () in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

Certifications

- 1) The applicant represents that it is () is not () a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- 2) The applicant represents that it is () is not () is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

Note

If an applicant responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government's interests. The applicant therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then notify the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before award decisions are made.

Term Definitions

Felony conviction: Felony conviction means a conviction within the preceding twenty-four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. § 3559.

Tax Delinquency: A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.