



## STAFF REPORT

**Report To:** Board of Supervisors

**Meeting Date:** February 4, 2021

**Staff Contact:** Carol Akers, Purchasing & Contracts Administrator and Darren Schulz, Public Works Director

**Agenda Title:** For Possible Action: Discussion and possible action regarding a determination that Triumph Electric Company, Inc., is the lowest responsive and responsible bidder pursuant to NRS Chapter 338 and whether to award Contract No. 20300228, Production Wells Permanent Emergency Generators Project, to Triumph Electric Company, Inc., for a total not to exceed amount of \$605,000. (Carol Akers, CAkers@carson.org and Dan Stucky, DStucky@carson.org)

Staff Summary: The permanent emergency generator projects consist of installing generators at four sites to provide backup power to four wells and one sewer lift station. The construction contract is for the base bid amount of \$550,000 plus a 10% contingency amount of \$55,000. The engineer's estimate was \$847,000.

**Agenda Action:** Formal Action / Motion

**Time Requested:** 5 Minutes

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### **Proposed Motion**

I move to award the contract as presented.

### **Board's Strategic Goal**

Sustainable Infrastructure

### **Previous Action**

On August 17, 2017, the Board of Supervisors voted 5 – 0 to submit a grant application to the Nevada Division of Emergency Management ("DEM") for emergency generators and booster pumps as part of the hazard mitigation grant program. The scope of the grant application, as approved by the Board Supervisors, was for the purchase and installation of four emergency generators in order to provide backup power to four critical potable water well facilities and one sanitary sewer lift station.

### **Background/Issues & Analysis**

In 2017, staff submitted a grant application to the DEM for emergency generators and booster pumps as part of the hazard mitigation grant program. The scope of the grant application was for the purchase and installation of four emergency generators in order to provide backup power to four critical potable water well facilities and one sanitary sewer lift station. The four sites selected to have permanent generators were chosen due to being high producers of water in strategic locations throughout the City with adequate room on the site to place a generator. Additionally, the Well 24 site was chosen because in addition to the well, a generator at this location could also support a sanitary sewer lift station located in the median of 5th Street several hundred feet to the east.

Special Use Permits ("SUP") for the four project sites were brought forward to the July 29, 2020 and September 30, 2020 Planning Commission meetings, where the Planning Commission voted 5-0 to approve the SUP at Well 3 and 7-0 to approve the SUPs at well sites 24, 41, and 55. A variance for well site 24 was also brought to the September 30, 2020 Planning Commission meeting, where the Planning Commission voted 6-1 to approve the variance. The work associated with this contract includes purchasing and installing the generators and associated equipment at the four sites. Carson City will be reimbursed for 75% of the cost by DEM.

A NOTICE TO CONTRACTORS was published in the Reno Gazette Journal on December 8, 2020. Four bids were opened at approximately 11:30 am on January 7, 2021, via online Cisco Webex bid opening. Present during the bid opening were: Jake Watkins, Nelson Electric; Jennifer Andrews, Creekside Electrical; Dru Simerson, Simerson Construction; Scott Emerich, Triumph Electric; Darren Anderson and Kate Allen, Carson City Public Works Department; and Carol Akers, Carson City Purchasing and Contracts Administrator.

	Base Bid
1. Triumph Electric, Inc.	\$550,000
2. Nelson Electric Company, Inc.	\$613,000
3. Simerson Construction LLC	\$670,609
4. Creekside Electrical Contractors, Inc.	\$687,500

Staff recommends award to Triumph Electric, Inc., as the lowest responsive and responsible bidder pursuant to NRS Chapter 338.

#### **Applicable Statute, Code, Policy, Rule or Regulation**

NRS Chapter 338

#### **Financial Information**

**Is there a fiscal impact?** Yes

**If yes, account name/number:** Water Fund Capital Projects / #5203505-507340, Project # P350518078

**Is it currently budgeted?** Yes

**Explanation of Fiscal Impact:** Account # 5203505-507340 will be reduced by a not to exceed amount of \$605,000; the available budget is \$965,482. The City will be reimbursed for 75% or \$453,750.00.

#### **Alternatives**

Do not approve the contract and provide alternative direction to staff.

#### **Attachments:**

[20300228 Bid Tab Detail.pdf](#)

[20300228 DRAFT Contract.pdf](#)

[4307-DR-NV RIX POP Extension.pdf](#)

#### **Board Action Taken:**

Motion: \_\_\_\_\_

1) \_\_\_\_\_  
2) \_\_\_\_\_

Aye/Nay

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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(Vote Recorded By)

**Bid Tabulation Report from Carson City Purchasing & Contracts  
775-283-7362**

**Notice to Contractors Bid# 20300228 Carson City Production Wells Permanent Emergency Generators Project - FEMA**

**Date and Time of Opening: January 7, 2021 @ 11:30am**

Description				Bidder # 1		Bidder # 2		Bidder #3		Bidder # 4	
				Triumph Electric, Inc.		Nelson Electric Company, Inc.		Simerson Construction LLC		Creekside Electrical Contractors, Inc.	
BONDING Provided, \$, %, or no				5%		5%		5%		5%	
BIDDER acknowledges receipt addendums				Y		Y		Y		Y	
Description		Sched Value	Unit	Unit price	Total price	Unit price	Total price	Unit price	Total price	Unit price	Total price
	Base Bid Items - Schedule A										
1	Well 3: Mobilization, Demobilization and Clean-Up	1	LS	\$2,000.00	\$2,000.00	\$5,300.00	\$5,300.00	\$9,614.00	\$9,614.00	\$3,000.00	\$3,000.00
2	Well 3: Purchase of Generator and Transfer Switch	1	LS	\$89,200.00	\$89,200.00	\$89,900.00	\$89,900.00	\$97,750.00	\$97,750.00	\$85,000.00	\$85,000.00
3	Well 3: Install of Generator, Transfer Switch, and Associated Improvements	1	LS	\$22,300.00	\$22,300.00	\$32,300.00	\$32,300.00	\$39,216.00	\$39,216.00	\$38,300.00	\$38,300.00
4	Well 3: Removal and Restoration of Existing Site Improvements	1	LS	\$2,000.00	\$2,000.00	\$1,900.00	\$1,900.00	\$1,371.00	\$1,371.00	\$12,000.00	\$12,000.00
5	Well 3: Generator Pad and Concrete Flatwork	1	LS	\$10,600.00	\$10,600.00	\$6,200.00	\$6,200.00	\$16,093.00	\$16,093.00	\$12,000.00	\$12,000.00
6	Well 24: Mobilization, Demobilization and Clean-Up	1	LS	\$2,000.00	\$2,000.00	\$5,300.00	\$5,300.00	\$10,166.00	\$10,166.00	\$3,000.00	\$3,000.00
7	Well 24: Purchase of Generator and Transfer Switch	1	LS	\$94,700.00	\$94,700.00	\$95,900.00	\$95,900.00	\$104,529.00	\$104,529.00	\$90,000.00	\$90,000.00
8	Well 24: Install of Generator, Transfer Switch, and Associated Improvements	1	LS	\$46,800.00	\$46,800.00	\$67,200.00	\$67,200.00	\$52,790.00	\$52,790.00	\$80,200.00	\$80,200.00
9	Well 24: Removal and Restoration of Existing Site Improvements	1	LS	\$2,000.00	\$2,000.00	\$8,200.00	\$8,200.00	\$9,990.00	\$9,990.00	\$23,000.00	\$23,000.00
10	Well 24: Generator Pad, Concrete Flatwork, and Pipe Bollards	1	LS	\$12,900.00	\$12,900.00	\$17,500.00	\$17,500.00	\$10,102.00	\$10,102.00	\$18,000.00	\$18,000.00
11	Well 41: Mobilization, Demobilization and Clean-Up	1	LS	\$2,000.00	\$2,000.00	\$4,200.00	\$4,200.00	\$9,282.00	\$9,282.00	\$3,000.00	\$3,000.00
12	Well 41: Purchase of Generator and Transfer Switch	1	LS	\$82,700.00	\$82,700.00	\$83,900.00	\$83,900.00	\$91,347.00	\$91,347.00	\$80,000.00	\$80,000.00
13	Well 41: Install of Generator, Transfer Switch, and Associated Improvements	1	LS	\$35,400.00	\$35,400.00	\$41,000.00	\$41,000.00	\$42,845.00	\$42,845.00	\$51,800.00	\$51,800.00
14	Well 41: Removal and Restoration of Existing Site Improvements	1	LS	\$2,000.00	\$2,000.00	\$1,900.00	\$1,900.00	\$3,360.00	\$3,360.00	\$4,000.00	\$4,000.00
15	Well 41: Generator Pad, Concrete Flatwork, and Pipe Bollards	1	LS	\$13,000.00	\$13,000.00	\$9,500.00	\$9,500.00	\$17,935.00	\$17,935.00	\$22,000.00	\$22,000.00
16	Well 55: Mobilization, Demobilization and Clean-Up	1	LS	\$2,000.00	\$2,000.00	\$4,500.00	\$4,500.00	\$8,951.00	\$8,951.00	\$3,000.00	\$3,000.00
17	Well 55: Purchase of Generator and Transfer Switch	1	LS	\$73,500.00	\$73,500.00	\$74,600.00	\$74,600.00	\$81,041.00	\$81,041.00	\$70,000.00	\$70,000.00
18	Well 55: Install of Generator, Transfer Switch, and Associated Improvements	1	LS	\$42,200.00	\$42,200.00	\$51,000.00	\$51,000.00	\$49,275.00	\$49,275.00	\$57,200.00	\$57,200.00
19	Well 55: Removal and Restoration of Existing Site Improvements	1	LS	\$2,000.00	\$2,000.00	\$1,900.00	\$1,900.00	\$1,570.00	\$1,570.00	\$12,000.00	\$12,000.00
20	Well 55: Generator Pad, Concrete Flatwork, and Pipe Bollards	1	LS	\$10,700.00	\$10,700.00	\$10,800.00	\$10,800.00	\$13,382.00	\$13,382.00	\$20,000.00	\$20,000.00
	Total Bid Price (Schedule A)			\$550,000.00		\$613,000.00		\$670,609.00		\$687,500.00	
Total Bid Price written in words? y/n				Y		Y		Y		Y	
Bidder Information provided? y/n				Y		Y		Y		Y	
Sub Contractors listed? y/n or none				Y		Y		Y		Y	
Bid Document executed? y/n				Y		Y		Y		Y	
Req. Forms? y/n				Y		Y		N		Y	
The City intends to award the contract to Triumph Electric, Inc. at the February 4, 2021 Board of Supervisors Meeting.											

# CONSTRUCTION INDEPENDENT CONTRACTOR AGREEMENT

Contract No: 20300228

## Title: Carson City Production Wells Permanent Emergency Generators Project

THIS CONTRACT made and entered into this 4<sup>th</sup> day of February 2021, by and between Carson City, a consolidated municipality, a political subdivision of the State of Nevada, hereinafter referred to as "**CITY**", and Triumph Electric, Inc., hereinafter referred to as "**CONTRACTOR**".

### WITNESSETH:

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

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

**WHEREAS, CONTRACTOR'S** compensation under this agreement (does X) (does not   ) utilize in whole or in part money derived from one or more federal grant funding source(s) as set forth in **Exhibit B**; and

**WHEREAS**, it is deemed necessary that the services of **CONTRACTOR** for **CONTRACT No. 20300228**, titled **Carson City Production Wells Permanent Emergency Generators Project** (hereinafter referred to as "Contract") are both necessary and in the best interest of **CITY**; and

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

#### 1. REQUIRED APPROVAL:

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

#### 2. SCOPE OF WORK (Incorporated Contract Documents):

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

2.1.1 **CONTRACTOR** agrees that the Contract Documents for Bid No. 20300228 including, but not limited to, the Notice to Contractors, Table of Contents, Project Coordination, Instructions to Bidders, Contract Award Information, General Conditions, Special Conditions, Technical Specification, Prevailing Wages, Contract Drawings, and Addenda, if any, are intended to be complete and complementary and are intended to describe a complete WORK. These documents are incorporated herein by reference and made a part of this Contract. All of these documents can be reviewed in person at the Public Works Department 3505 Butti Way, Carson City, Nevada, 89701 or on the Carson City Website <http://www.carson.org/bids>.

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

For P&C Use Only

CCBL expires	_____
NVCL expires	_____
GL expires	_____
AL expires	_____
WC expires	_____

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### 3. CONTRACT TERM AND LIQUIDATED DAMAGES:

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

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

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

### 4. NOTICE:

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

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

Ryan Flickinger, President  
Triumph Electric, Inc.  
1360 Greg Street Ste 106  
Sparks, NV 89431  
775-355-1965  
[ryan@triumphelectricreno.com](mailto:ryan@triumphelectricreno.com)

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

Carson City Purchasing and Contracts Department  
Carol Akers, Purchasing & Contracts Administrator  
201 North Carson Street, Suite 2  
Carson City, NV 89701  
775-283-7362 / FAX 775-887-2286  
[CAkers@carson.org](mailto:CAkers@carson.org)

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### 5. COMPENSATION:

5.1 The parties agree that **CONTRACTOR** will provide the WORK specified in the Contract for the Contract Amount of Five Hundred Fifty Thousand Dollars and 00/100 (\$550,000.00).

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

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

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

### 6. CONTRACT TERMINATION:

#### 6.1 Termination Without Cause:

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

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

#### 6.2 Termination for Nonappropriation:

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

#### 6.3 Cause Termination for Default or Breach:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6.3.3.2 Accept assignment of subcontractors pursuant to this Contract (Contingent Assignment of Subcontracts to Carson City if this Contract is terminated); and

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

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

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

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

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

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

6.5 Time to Correct (Declared Default or Breach):

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

6.6 Winding Up Affairs Upon Termination:

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

6.6.1.1 The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;

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and

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

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

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

### 6.7 Notice of Termination:

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

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

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

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

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

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

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

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

(1) The name of the worker;

(2) The occupation of the worker;

(3) The gender of the worker, if the worker voluntarily agreed to specify that information pursuant to subsection 4, or an entry indicating that the worker declined to specify such information;

(4) The ethnicity of the worker, if the worker voluntarily agreed to specify that information pursuant to subsection 4, or an entry indicating that the worker declined to specify such information;

(5) If the worker has a driver's license or identification card, an indication of the state or other jurisdiction that issued the license or card; and

(6) The actual per diem, wages and benefits paid to the worker; and

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

(1) The name of the worker;

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

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

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

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

## **8. FAIR EMPLOYMENT PRACTICES:**

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

**8.1.1 *In connection with the performance of work under this Contract, CONTRACTOR agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation, gender identity, or age, including, without limitation, with regard to employment, upgrading, demotion or transfer,***

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*recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including without limitation, apprenticeship.*

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

8.2 If the CITY was required by NRS 332.039(1) to advertise or request a proposal for this Agreement, by signing this Agreement, the **CONTRACTOR** provides a written certification that the **CONTRACTOR** is not currently engaged in, and during the Term shall not engage in, a Boycott of Israel. The term "Boycott of Israel" has the meaning ascribed to that term in Section 3 of Nevada Senate Bill 26 (2017). The **CONTRACTOR** shall be responsible for fines, penalties, and payment of any State of Nevada or federal funds that may arise (including those that the CITY pays, becomes liable to pay, or becomes liable to repay) as a direct result of the **CONTRACTOR's** non-compliance with this Section.

### 9. PREFERENTIAL EMPLOYMENT:

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

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

### 10. REMEDIES:

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

### 11. LIMITED LIABILITY:

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

### 12. FORCE MAJEURE:

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

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### 13. INDEMNIFICATION:

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

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

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

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

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

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

### 14. INDEPENDENT CONTRACTOR:

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

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

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

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

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

### 15. INSURANCE REQUIREMENTS (GENERAL):

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

15.2 **CONTRACTOR**, as an independent contractor and not an employee of **CITY**, must carry policies of insurance in amounts specified and pay all taxes and fees incident hereunto. **CITY** shall have no liability except as specifically provided in this Contract.

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

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

15.5 *Insurance Coverage (15.6 through 15.23):*

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

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

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

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

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

15.8 **Certificate Holder:** Each certificate shall list Carson City c/o Carson City Purchasing and Contracts, 201 N. Carson Street, Suite 2, Carson City, NV 89701 as a certificate holder.

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

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

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

15.12 **Deductibles and Self-Insured Retentions:** Insurance maintained by **CONTRACTOR** shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise

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specifically agreed to by **CITY**. Such approval shall not relieve **CONTRACTOR** from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$5,000.00 per occurrence, unless otherwise approved by **CITY**.

**15.13 Policy Cancellation:** Except for ten (10) calendar days notice for non-payment of premium, **CONTRACTOR** or its insurers must provide thirty (30) calendar days prior written notice to Carson City Purchasing and Contracts if any policy will be canceled, non-renewed or if required coverage and /or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by mail to Carson City Purchasing and Contracts, 201 N. Carson Street, Suite 2, Carson City, NV 89701. When available, each insurance policy shall be endorsed to provide thirty (30) days' notice of cancellation, except for ten (10) days' notice for non-payment of premium, to City.

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

**15.15 Evidence of Insurance:** Prior to commencement of work, **CONTRACTOR** must provide the following documents to Carson City Purchasing and Contracts, 201 North Carson Street, Suite 2, Carson City, NV 89701:

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

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

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

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

### 15.20 COMMERCIAL GENERAL LIABILITY INSURANCE:

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

15.20.1 *Minimum Limits required:*

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

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

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

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- 15.20.5 CGL insurance shall be written on ISO occurrence form CG 00 01 04 13 (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, products-completed operations, personal and advertising injury, and liability assumed under an insured contract [(including the tort liability of another assumed in a business contract)].
- 15.20.6 City and County of Carson City, Nevada, its officers, employees and immune contractors shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 10 or CG 20 26, or a substitute providing equivalent coverage, and under the commercial umbrella, if any.
- 15.20.7 This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to City There shall be no endorsement or modification of the CGL to make it excess over other available insurance; alternatively, if the CGL states that it is excess or pro rata, the policy shall be endorsed to be primary with respect to the additional insured.
- 15.20.8 There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability assumed under a contract.
- 15.20.9 Contractor waives all rights against City and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the commercial general liability or commercial umbrella liability insurance maintained pursuant to this Contract. Insurer shall endorse CGL policy as required to waive subrogation against City with respect to any loss paid under the policy
- 15.21 **BUSINESS AUTOMOBILE LIABILITY INSURANCE:**
- 15.21.1 *Minimum Limit required:*
- 15.21.2 Contractor shall maintain automobile liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident for bodily injury and property damage.
- 15.21.3 Such insurance shall cover liability arising out of owned, hired, and non-owned autos (as applicable). Coverage as required above shall be written on ISO form CA 00 01, CA 00 05, CA 00 25, or a substitute form providing equivalent liability coverage.
- 15.21.4 Contractor waives all rights against City and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the automobile liability or other liability insurance obtained by Contractor pursuant this Contract.
- 15.22 **PROFESSIONAL LIABILITY INSURANCE (Architects, Engineers and Land Surveyors)**
- 15.22.1 *Minimum Limit required:*
- 15.22.2 CONTRACTOR shall maintain professional liability insurance applying to all activities performed under this Contract with limits not less than One Million Dollars (\$1,000,000.00) and Two Million Dollars (\$2,000,000) in the aggregate.
- 15.22.3 Retroactive date: Prior to commencement of the performance of this Contract.
- 15.22.4 CONTRACTOR will maintain professional liability insurance during the term of this Contract and for a period of three (3) years after termination of this Contract unless waived by the City. In the event of non-renewal or other lapse in coverage during the term of this Contract or the three (3) year period described above, CONTRACTOR shall purchase Extended Reporting Period coverage for claims arising out of CONTRACTOR's negligence acts, errors and omissions

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committed during the term of the Professional Liability Policy. The Extended Reporting Period shall continue through a minimum of three (3) years after termination date of this Contract.

15.22.5 A certified copy of this policy may be required.

### 15.23 **WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE:**

15.23.1 **CONTRACTOR** shall provide workers' compensation insurance as required by NRS Chapters 616A through 616D inclusive and Employer's Liability insurance with a minimum limit not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease

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

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

### 16. **BUSINESS LICENSE:**

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

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

### 17. **COMPLIANCE WITH LEGAL OBLIGATIONS:**

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

### 18. **WAIVER OF BREACH:**

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

### 19. **SEVERABILITY:**

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

### 20. **ASSIGNMENT / DELEGATION:**

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

### 21. CITY OWNERSHIP OF PROPRIETARY INFORMATION:

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

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

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

### 22. PUBLIC RECORDS:

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

### 23. CONFIDENTIALITY:

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

### 24. FEDERAL FUNDING:

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

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

24.1.2 **CONTRACTOR** and its subcontractors must be registered in the US Government System for Award Management (SAM) for verification on projects with federal funding.

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

24.1.4 **CONTRACTOR** and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and Executive Order 11478 (July 21, 2014) and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, sexual orientation, gender identity, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions).

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

### 25. LOBBYING:

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

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

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

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

### 26. GENERAL WARRANTY:

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

### 27. PROPER AUTHORITY:

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

### 28. ALTERNATIVE DISPUTE RESOLUTION (Public Work):

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

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as the mediator from the list of potential mediators presented by **CITY**. The person selected as mediator shall determine the rules governing the mediation.

### **29. GOVERNING LAW / JURISDICTION:**

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

### **30. ENTIRE CONTRACT AND MODIFICATION:**

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

# CONSTRUCTION INDEPENDENT CONTRACTOR AGREEMENT

Contract No: 20300228

## Title: Carson City Production Wells Permanent Emergency Generators Project

### 31. ACKNOWLEDGMENT AND EXECUTION:

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

**AND ALL SUPPLEMENTAL AGREEMENTS AMENDING OR EXTENDING THE WORK CONTEMPLATED.**

### **ACKNOWLEDGMENT AND EXECUTION:**

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

#### **CITY**

Executive Office  
Purchasing and Contracts Department  
201 North Carson Street, Suite 2  
Carson City, Nevada 89701  
Telephone: 775-283-7362  
Fax: 775-887-2286  
[CAkers@carson.org](mailto:CAkers@carson.org)

#### **CITY'S LEGAL COUNSEL**

Carson City District Attorney

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

By: \_\_\_\_\_  
Sheri Russell, Chief Financial Officer

By: \_\_\_\_\_  
Deputy District Attorney

Dated \_\_\_\_\_

Dated \_\_\_\_\_

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

**BY:** Carol Akers  
Purchasing & Contracts Administrator

Project: P350518078  
Account: 5203505-507340

By: \_\_\_\_\_

Dated \_\_\_\_\_

### **PROJECT CONTACT PERSON:**

Darren Anderson, Project Manager  
Telephone: 775-283-7584

# CONSTRUCTION INDEPENDENT CONTRACTOR AGREEMENT

Contract No: 20300228

## Title: Carson City Production Wells Permanent Emergency Generators Project

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

**CONTRACTOR**

**BY:** Ryan Flickinger

**TITLE:** President

**FIRM:** Triumph Electric, Inc.

**CARSON CITY BUSINESS LICENSE #:** BL-001034-2020

**NEVADA CONTRACTORS LICENSE #:** 0067820

**Address:** 1360 Greg Street Suite 106

**City:** Sparks **State:** NV **Zip Code:** 89431

**Telephone:** 775-355-1965

**E-mail Address:** [ryan@triumphelectricreno.com](mailto:ryan@triumphelectricreno.com)

\_\_\_\_\_  
(Signature of Contractor)

**DATED** \_\_\_\_\_

**STATE OF** \_\_\_\_\_ )

)ss

**County of** \_\_\_\_\_ )

Signed and sworn (or affirmed before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Signature of Notary)

(Notary Stamp)

# CONSTRUCTION INDEPENDENT CONTRACTOR AGREEMENT

**Contract No: 20300228**

**Title: Carson City Production Wells  
Permanent Emergency Generators Project**

## CONTRACT ACCEPTANCE AND EXECUTION:

The Board of Supervisors for Carson City, Nevada at their publicly noticed meeting of February 4, 2021, approved the acceptance of the attached Contract hereinbefore identified as **CONTRACT No. 20300228** and titled **Carson City Production Wells Permanent Emergency Generators Project**. Further, the Board of Supervisors authorizes the Mayor of Carson City, Nevada to set his hand to this document and record his signature for the execution of this Contract in accordance with the action taken.

**CARSON CITY, NEVADA**

\_\_\_\_\_  
LORI BAGWELL, MAYOR

DATED this 4<sup>th</sup> day of February 2021.

**ATTEST:**

\_\_\_\_\_  
AUBREY ROWLATT, CLERK-RECORDER

DATED this 4th day of February 2021.

# PERFORMANCE BOND

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

Bond #: \_\_\_\_\_

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

\_\_\_\_\_ a corporation duly organized under the laws of \_\_\_\_\_, as Surety, hereinafter called the Surety, are held and firmly bound unto Carson City, Nevada a consolidated municipality of the State of Nevada, hereinafter called CITY, for the sum of \$ \_\_\_\_\_ (state sum in Words) \_\_\_\_\_ for the payment whereof CONTRACTOR and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

**WHEREAS**, CONTRACTOR has by written agreement dated \_\_\_\_\_, entered into a contract with CITY for **BID# 20300228** and titled **Carson City Production Wells Permanent Emergency Generators Project** in accordance with drawings and specifications prepared by CITY and which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

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

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

# PERFORMANCE BOND

Continued for **BID# 20300228** and titled **Carson City Production Wells Permanent Emergency Generators**  
Project

<b>BY:</b>	<b>(Signature of Principal)</b>    <b>L.S.</b>
<b>TITLE:</b>	
<b>FIRM:</b>	
<b>Address:</b>	
<b>City, State, Zip:</b>	
<b>Phone:</b>	
<b>Printed Name of Principal:</b>	
<b>Attest By:</b>	<b>(Signature of Notary)</b>
<b>Subscribed and Sworn before me this      day of      ,20____</b>	

## CLAIMS UNDER THIS BOND MAY BE ADDRESSED TO:

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

## NOTICE:

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

# LABOR AND MATERIAL PAYMENT BOND

Bond #: \_\_\_\_\_

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

**KNOW ALL MEN BY THESE PRESENTS**, that I/we \_\_\_\_\_  
\_\_\_\_\_ as Principal, hereinafter called

CONTRACTOR, and

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

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

**WHEREAS**, CONTRACTOR has by written agreement dated \_\_\_\_\_ entered into a contract with  
CITY for **BID# 20300228** and titled **Carson City Production Wells Permanent Emergency Generators Project**,  
in accordance with drawings and specifications prepared by CITY and which contract is by reference made a part  
hereof, and is hereinafter referred to as the Contract.

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

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

# LABOR AND MATERIAL PAYMENT BOND

Continued for **BID# 20300228** and titled **Carson City Production Wells Permanent Emergency Generators Project**

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

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

## CLAIMS UNDER THIS BOND MAY BE ADDRESSED TO:

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

## NOTICE:

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

**BID PROPOSAL****Exhibit A****CITY OF CARSON CITY, NEVADA – BID BOND**

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

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

AND, WHEREAS, the Principal has submitted a bid for Bid # **20300228**, PWP #CC-2021-068, for the Project Title: **Carson City Production Wells Permanent Emergency Generators Project**.

NOW, THEREFORE,

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

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

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

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

Signed, Sealed and dated: December 28, 2020

Triumph Electric, Inc.  
Principal  
By: [Signature]

RLI Insurance Company  
Surety  
By: [Signature]  
Brandon Sheridan, Attorney In Fact



# POWER OF ATTORNEY

Exhibit A

## RLI Insurance Company

9025 N. Lindbergh Dr. Peoria, IL 61615  
Phone: 800-645-2402

Bond No. LSM1354370

### Know All Men by These Presents:

That the RLI Insurance Company, a corporation organized and existing under the laws of the State of Illinois, and authorized and licensed to do business in all states and the District of Columbia does hereby make, constitute and appoint: Brandon Sheridan in the City of Quincy, State of California, as it's true and lawful Agent and Attorney In Fact, with full power and authority hereby conferred upon him/her to sign, execute, acknowledge and deliver for and on its behalf as Surety, in general, any and all bond and undertakings in an amount not to exceed Ten Million and 00/100 Dollars (\$10,000,000.00) for any single obligation, and specifically for the following described bond.

Principal: Triumph Electric, Inc.  
Obligee: City of Carson City  
Bond Amount: 5% of Total Amount Bid

The RLI Insurance Company further certifies that the following is a true and exact copy of a Resolution adopted by the Board of Directors of RLI Insurance Company, and now in force to-wit:

"All bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or Agents who shall have authority to issue bonds, policies or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

IN WITNESS WHEREOF, the RLI Insurance Company has caused these presents to be executed by its Vice President with its corporate seal affixed this 28th day of December, 2020.

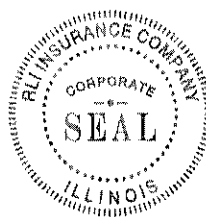
State of Illinois

County of Peoria

} SS

On this 28th day of December, 2020, before me, a Notary Public, personally appeared Barton W. Davis, who being by me duly sworn, acknowledged that he signed the above Power of Attorney as the aforesaid officer of the RLI Insurance Company, and acknowledged said instrument to be the voluntary act and deed of said corporation.

By: Catherine D. Glover  
Catherine D. Glover Notary Public



RLI Insurance Company

By: B. W. Davis  
Barton W. Davis Vice President

### CERTIFICATE

I, the undersigned officer of RLI Insurance Company do hereby certify that the attached Power of Attorney is in full force and effect and is irrevocable; and furthermore, that the Resolution of the Company as set forth in the Power of Attorney, is now in force. In testimony whereof, I have hereunto set my hand and the seal of the RLI Insurance Company this 28th day of December, 2020.

RLI Insurance Company

By: Jeffrey D. Pick  
Jeffrey D. Pick Corporate Secretary

# BID PROPOSAL

Exhibit A

**BID # 20300228**

**BID TITLE: "Carson City Production Wells Permanent Emergency Generators Project"**

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

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

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

**BIDDER** acknowledges receipt of 1,2,3 Addendums.

## BP.1 SUMMARY

	Description	Scheduled Value	Unit	Unit Price	Total Price
	<b>Schedule A:</b>				
1	Well 3: Mobilization, Demobilization and Clean-Up	1	LS	\$2,000.00	\$2,000.00
2	Well 3: Purchase of Generator and Transfer Switch	1	LS	\$89,200.00	\$89,200.00
3	Well 3: Install of Generator, Transfer Switch, and Associated Improvements	1	LS	\$22,300.00	\$22,300.00
4	Well 3: Removal and Restoration of Existing Site Improvements	1	LS	\$2,000.00	\$2,000.00
5	Well 3: Generator Pad and Concrete Flatwork	1	LS	\$10,600.00	\$10,600.00
6	Well 24: Mobilization, Demobilization and Clean-Up	1	LS	\$2,000.00	\$2,000.00
7	Well 24: Purchase of Generator and Transfer Switch	1	LS	\$94,700.00	\$94,700.00
8	Well 24: Install of Generator, Transfer Switch, and Associated Improvements	1	LS	\$46,800.00	\$46,800.00
9	Well 24: Removal and Restoration of Existing Site Improvements	1	LS	\$2,000.00	\$2,000.00
10	Well 24: Generator Pad, Concrete Flatwork, and Pipe Bollards	1	LS	\$12,900.00	\$12,900.00
11	Well 41: Mobilization, Demobilization and Clean-Up	1	LS	\$2,000.00	\$2,000.00
12	Well 41: Purchase of Generator and Transfer Switch	1	LS	\$82,700.00	\$82,700.00
13	Well 41: Install of Generator, Transfer Switch, and Associated Improvements	1	LS	\$35,400.00	\$35,400.00
14	Well 41: Removal and Restoration of Existing Site Improvements	1	LS	\$2,000.00	\$2,000.00
15	Well 41: Generator Pad, Concrete Flatwork, and Pipe Bollards	1	LS	\$13,000.00	\$13,000.00
16	Well 55: Mobilization, Demobilization and Clean-Up	1	LS	\$2,000.00	\$2,000.00
17	Well 55: Purchase of Generator and Transfer Switch	1	LS	\$73,500.00	\$73,500.00
18	Well 55: Install of Generator, Transfer Switch, and Associated Improvements	1	LS	\$42,200.00	\$42,200.00

# BID PROPOSAL

Exhibit A

19	Well 55: Removal and Restoration of Existing Site Improvements	1	LS	\$2,000.00	\$2,000.00
20	Well 55: Generator Pad, Concrete Flatwork, and Pipe Bollards	1	LS	\$10,700.00	\$10,700.00
BP.2 Total Base Bid Price (Schedule A)				\$550,000.00	

BP.3 Total Base (Schedule (A) Bid Price Written in Words: **Five Hundred Fifty Thousand Dollars**

## BP.4 BIDDER INFORMATION:

Company Name: <b>Triumph Electric, Inc.</b>
Federal ID No & DUNS.: <b>Fed ID. 61-1511401 &amp; Duns. 93-938-5287</b>
Mailing Address: <b>1360 Greg Street Ste 106</b>
City, State, Zip Code: <b>Sparks, NV 89431</b>
Complete Telephone Number: <b>775-355-1965</b>
Complete Fax Number: <b>775-355-1977</b>
Fax Number including area code: <b>775-355-1977</b>
E-mail: <b>semerich@triumphelectricreno.com</b>

Contact Person / Title: <b>Scott Emerich, Estimator/PM</b>
Mailing Address: <b>1360 Greg St. Ste 106</b>
City, State, Zip Code: <b>Sparks, NV 89431</b>
Complete Telephone Number: <b>775-355-1965</b>
Complete Fax Number: <b>775-355-1977</b>
E-mail Address: <b>semerich@triumphelectricreno.com</b>

## BP.5 LICENSING INFORMATION:

Nevada State Contractor's License Number: <b>0067820</b>
License Classification(s): <b>C-2 Electrical</b>
Limitation(s) of License: <b>Unlimited</b>
Date Issued: <b>February 6th, 2007</b>

# BID PROPOSAL

Exhibit A

Date of Expiration: 12/31/2021
Name of Licensee: Triumph Electric
Carson City Business License Number: BL-001034-2020
Date Issued: 01/01/2021
Date of Expiration: 12/31/2021
Name of Licensee: Triumph Electric

## BP.6 DISCLOSURE OF PRINCIPALS:

### Individual and/or Partnership:

Owner 1) Name: Ryan Flickinger, President / 50% Owner
Address: 1360 Greg Street Suite 106
City, State, Zip Code: Sparks, NV 89431
Telephone Number: 775-771-8933
Owner 2) Name: Jess McDaniels, Vice President / 50% Owner
Address: 1360 Greg Street Suite 106
City, State, Zip Code: Sparks, NV 89431
Telephone Number: 775-771-8944
Other 1) Title:
Name
Other 2) Title:
Name:

### Corporation:

State in which Company is Incorporated:
Date Incorporated: October 10, 2006
Name of Corporation: Triumph Electric
Mailing Address 1360 Greg Street Suite 106
City, State, Zip Code: Sparks, NV 89431

# BID PROPOSAL

Exhibit A

Telephone Number: 775-355-1965
President's Name: Ryan Flickinger
Vice-President's Name: Jess McDoniels
Other 1) Name & Title:

## BP.7 MANAGEMENT AND SUPERVISORY PERSONNEL:

Persons and Positions	Years With Firm
Name 1) Ryan Flickinger	13+

Title 1) President

Name 2) Jess McDoniels	13+
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Title 2) Vice President

Name 3) Eric Flickinger	3+
-------------------------	----

Title 3) Operations Manager

Name 4) Scott Emerich	5+
-----------------------	----

Title 4) Estimator / Project Manager

Name 5) Milly Bossert	6+
-----------------------	----

Title 5) Accounts Receivable

Name 6)	
---------	--

Title 6)

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

# BID PROPOSAL

Exhibit A

## BP.8 REFERENCES:

### Instructions:

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

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

<b>Company Name 1):</b> TMWRF Waste Water Treatment Plant
Contract Person: Matt Smith, City of Reno
Mailing Address:
City, State, Zip Code:
Complete Telephone Number: 775-359-8822
E-Mail Address: smithm@reno.gov
Project Title: MCC 6 Replacement Project
Amount of Contract: \$350,000
Scope of Work: Remove and replace existing motor control center #6
<b>Company Name 2):</b> Gerhardt & Berry
Contract Person: Greg Gerhardt
Mailing Address: PO Box 51749
City, State, Zip Code: Sparks, NV 89435
Complete Telephone Number: 775-359-8817
E-Mail Address:
Project Title: TMWA Huffaker Booster Pump Station
Amount of Contract: \$113,000
Scope of Work: New Booster Pump Station Electrical and Controls

# BID PROPOSAL

Exhibit A

<b>Company Name 3):</b> Veterans Sierra Health Care
Contract Person: Chris Cotta, CEO Patriot Construction
Mailing Address: 4646 Qantas Lane B-4
City, State, Zip Code: Stockton, CA 95206
Complete Telephone Number: 209-982-9900
E-Mail Address:
Project Title: VA Loadshare North Project
Amount of Contract \$310,000
Scope of Work: Install New Emergency Generator and Emergency Back-up Switchgear
<b>Company Name 4):</b>
Contract Person:
Mailing Address:
City, State, Zip Code:
Complete Telephone Number:
E-Mail Address:
Project Title:
Amount of Contract:
Scope of Work:

# BID PROPOSAL

Exhibit A

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

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

  
\_\_\_\_\_  
Signature of Authorized Certifying Official  
Ryan Flickinger  
\_\_\_\_\_  
Printed Name

President  
\_\_\_\_\_  
Title  
12/29/2020  
\_\_\_\_\_  
Date

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

  
\_\_\_\_\_  
Signature

1/7/2021  
\_\_\_\_\_  
Date

### BIDDER'S SAFETY INFORMATION

#### Bidder's Safety Factors:

Year	"E-Mod" Factor <sup>1</sup>	OSHA Incident Rate <sup>2</sup>
2018	.82	.00000961538
2019	1.22	.00001923076

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

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

# BID PROPOSAL

Exhibit A

## SUBCONTRACTORS

**BP.10 INSTRUCTIONS:** for Subcontractors and **General Contractors who self-perform** in amounts **exceeding five (5) percent of bid amount**. This information must be submitted with your bid proposal **Per NRS 338.141 the prime contractor shall list itself on the subcontractor's list if it will be providing any of the work on the project.** (This form must be complete in all respects. If, additional space is needed, attach a separate page).

Name of Subcontractor <b>Triumph Electric, Inc</b>	Address <b>1360 Greg St. Ste 106, Sparks NV 89431</b>	
Phone <b>775-355-1965</b>	Nevada Contractor License # <b>0067820</b> DUNS# <b>93-938-5287</b>	Limit of License <b>Unlimited</b>
Description of work <b>Electrical</b>		
Name of Subcontractor <b>Cheek Construction</b>	Address <b>5401 Suite A18 Longley Ln, Reno NV 89502</b>	
Phone <b>775-426-8802</b>	Nevada Contractor License # <b>0078906</b> DUNS#	Limit of License <b>8,200,000</b>
Description of work <b>Excavation and Concrete</b>		
Name of Subcontractor	Address	
Phone	Nevada Contractor License # DUNS#	Limit of License
Description of work		
Name of Subcontractor	Address	
Phone	Nevada Contractor License # DUNS#	Limit of License
Description of work		
Name of Subcontractor	Address	
Phone	Nevada Contractor License # DUNS#	Limit of License
Description of work		

# BID PROPOSAL

Exhibit A

## SUBCONTRACTORS

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

Name of Subcontractor <b>Triumph Electric, Inc</b>	Address <b>1360 Greg St. Ste 106, Sparks NV 89431</b>	
Phone <b>775-355-1965</b>	Nevada Contractor License # <b>0067820</b> DUNS# <b>93-938-5287</b>	Limit of License <b>Unlimited</b>
Description of work <b>Electrical</b>		
Name of Subcontractor <b>Cheek Construction</b>	Address <b>5401 Suite A18 Longley Ln, Reno NV 89502</b>	
Phone	Nevada Contractor License # <b>0078906</b> DUNS#	Limit of License <b>8,200,000</b>
Description of work <b>Excavation and Concrete</b>		
Name of Subcontractor	Address	
Phone	Nevada Contractor License # DUNS#	Limit of License
Description of work		
Name of Subcontractor	Address	
Phone	Nevada Contractor License # DUNS#	Limit of License
Description of work		
Name of Subcontractor	Address	
Phone	Nevada Contractor License # DUNS#	Limit of License
Description of work		

# BID PROPOSAL

Exhibit A

## SUBCONTRACTORS

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

Name of Subcontractor	Address	
Phone	Nevada Contractor License # DUNS#	Limit of License
Description of work		
Name of Subcontractor	Address	
Phone	Nevada Contractor License # DUNS#	Limit of License
Description of work		
Name of Subcontractor	Address	
Phone	Nevada Contractor License # DUNS#	Limit of License
Description of work		
Name of Subcontractor	Address	
Phone	Nevada Contractor License # DUNS#	Limit of License
Description of work		
Name of Subcontractor	Address	
Phone	Nevada Contractor License # DUNS#	Limit of License
Description of work		

# BID PROPOSAL

Exhibit A

## BP.13 ACKNOWLEDGMENT AND EXECUTION:

STATE OF Nevada )  
COUNTY OF Carson City ) SS

I Ryan Flickinger (Name of party signing this Bid Proposal), do depose and say: That I am the Bidder or authorized agent of the Bidder; and that I have read and agree to abide by this Bid which includes, but is not limited to the following documents: Notice to Contractors, Table of Contents, Project Coordination, Instructions to Bidders, Bid Bond, Proposal Summary, Contract Award Instructions and Information, Sample Contract, Sample Performance Bond, Sample Labor and Material Payment Bond, General Conditions, Special Conditions, Standard Specifications, Prevailing Wage Rates, Technical Specifications, Geotechnical Report (if any), Contract Drawings, Permits (if any), and any addenda issued and understands the terms, conditions, and requirements thereof; that if his/her bid is accepted that he/she agrees to furnish and deliver all materials except those specified to be furnished by the City (Owner) and to do and perform all work for the **"Carson City Production Wells Permanent Emergency Generators Project"**, contract number **20300228**, together with incidental items necessary to complete the work to be constructed in accordance with the Contract Documents, Contract Drawings, and Specifications annexed hereto.


### BIDDER:

PRINTED NAME OF BIDDER: Ryan Flickinger  
TITLE: President  
FIRM: Triumph Electric  
Address: 1360 Greg Street Suite 106  
City, State, Zip: Sparks, NV 89431  
Telephone: 775-355-1965  
Fax: 775-355-1977  
E-mail Address: ryan@triumphelectricreno.com

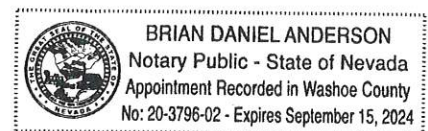
  
(Signature of Bidder)

DATED: 1/06/2021

Signed and sworn (or affirmed) before me on this 6<sup>th</sup> day of JANUARY, 2021, by

  
(Signature of Notary)

(Notary Stamp)

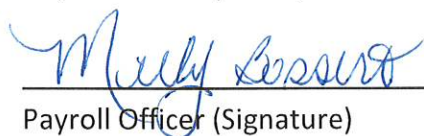


**Certification of Authorization and Understanding**Project Name: Carson City Production Wells PermaProject Number: P350518078

This is to certify that the principals, and the authorized payroll officer certify the following person(s) is designated as the payroll officer for the undersigned and is authorized to sign the Statement of Compliance which will accompany each weekly certified payroll report for this project.

Milly Bossert

Payroll Officer (Name)



Payroll Officer (Signature)

Triumph Electric

(Name of Contractor/Subcontractor)

By 

(Owner's Signature)

President

(Title)

NV Lic. #0067820

(Contractor/Subcontractor License Number)

1/6/2021

(Date)

## Conflict of Interest Disclosure Form

Date: 12/29/2020

Project: Carson City Production Wells Perma

Title: President

Name: Ryan Flickinger

Position: No Conflict

Please describe below any relationships, transactions, positions you hold (volunteer or otherwise), or circumstances that you believe could contribute to a conflict of interest:

I have no conflict of interest to report. ✓

I have the following conflict of interest to report (please specify other nonprofit and for-profit boards you (and your spouse) sit on, any for-profit businesses for which you or an immediate family member are an officer or director, or a majority shareholder, and the name of your employer and any businesses you or a family member own:

I hereby certify that the information set forth above is true and complete to the best of my knowledge.

Signature: 

Date: 1/07/2021

**CHECK ONE:**

- ☒ 5 – 8 hour days  
☐ 4 – 10 hour days

**WAGE COMPARISON WORKSHEET**

Project Name Carson City Production Wells Perma Location Carson City, NV Date 1/07/2021

Date & Modification of Federal Wage Rates 01/01/2021 Date of State Rates 10/01/2020

Classification	Group		Area Zone		Federal Rate			State Rate			Rate To Be Paid			Fed/State
	Fed	State	Fed	State	Base Rate*	Fringe Benefit	Total	Base Rate*	Fringe Benefit	Total	Base Rate	Fringe Benefit	Total	
Electrician Wireman					\$41.50	\$20.17	\$61.67	\$41.50	\$20.14	\$61.64	\$41.50	\$20.21	\$61.71	
Wireman Foreman								\$45.65	\$20.26	\$65.91	\$45.65	\$20.33	\$65.98	
Notes:														

The higher base rate will determine whether the contractor will pay Davis-Bacon (Federal) or State rates for each classification. This only applies to contracts \$100,000 and over; only the Federal Wage Rates need to be used for contracts \$2,000 to \$100,000, if the total project cost is less than \$100,000.  
Note\* Add the zone rate or travel differential to the base rate to get the total base rate.

Use additional forms if necessary. **CONTRACTOR SIGNATURE & DATE:**  1/07/2021

**Company Name:** Triumph Electric, Inc.

## Project Workforce Checklist

Contract No.: 20300228 Project Name: Carson City Production Well Permanent Generator Proj.

Project: P350518078

Contractor/Subcontractor: Triumph Electric, Inc.

Craft/Trade	More than 3 Employees Anticipated?			Anticipate Needing Waiver?	
<b>Air Balance Technician</b>	Yes	No	N/A	Yes	No
<b>Alarm Installer</b>	Yes	No	N/A	Yes	No
<b>Bricklayer</b> , can also include tile setter, terrazzo workers and marble masons.	Yes	No	N/A	Yes	No
<b>Carpenter</b> , can also include cement masons, floor coverer, millwright and piledriver (non-equipment), plasterers and terrazzo workers.	Yes	No	N/A	Yes	No
<b>Cement Mason (See Laborers)</b>	Yes	No	N/A	Yes	No
<b>Electrician</b> , includes communication technician, line, neon sign and wireman. Can also include alarm installer.	Yes	No ✓	N/A	Yes	No ✓
<b>Elevator Constructor</b>	Yes	No	N/A	Yes	No
<b>Floor Coverer</b>	Yes	No	N/A	Yes	No
<b>Glazier (see also Painters and Allied Trades)</b>	Yes	No	N/A	Yes	No
<b>Hod Carrier (See Laborers)</b> , includes brick-mason tender and plaster tender.	Yes	No	N/A	Yes	No
<b>Iron Worker</b> , can also include fence erectors (steel/iron)	Yes	No	N/A	Yes	No
<b>Laborer</b> , can also include brick mason tender, cement mason, fence erector (non-steel/iron), flag person, highway striper, landscaper, plastic tender, and traffic barrier erector	Yes	No	N/A	Yes	No
<b>Lubrication and Service Engineer</b>	Yes	No	N/A	Yes	No
<b>Mechanical Insulator</b>	Yes	No	N/A	Yes	No
<b>Millwright</b>	Yes	No	N/A	Yes	No
<b>Operating Engineer</b> , can also include equipment greaser, piledriver, soils and material tester, steel fabricator/erector (equipment) and surveyor (non-licensed) and well driller.	Yes	No	N/A	Yes	No
<b>Painters and Allied Trades</b> , can also include glaziers, floor coverers, and tapers.	Yes	No	N/A	Yes	No
<b>Pile Driver (non-equipment)</b>	Yes	No	N/A	Yes	No
<b>Plasterer</b>	Yes	No	N/A	Yes	No
<b>Plumber/Pipefitter</b>	Yes	No	N/A	Yes	No

<b>Refrigeration</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Yes</b>	<b>No</b>
<b>Roofer</b> (not sheet metal)	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Yes</b>	<b>No</b>
<b>Sheet Metal Worker</b> , can also include air balance technician.	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Yes</b>	<b>No</b>
<b>Soils and Materials Tester</b> , includes certified soil tester	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Yes</b>	<b>No</b>
<b>Sprinkler Fitter</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Yes</b>	<b>No</b>
<b>Surveyor</b> (non-licensed)	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Yes</b>	<b>No</b>
<b>Taper</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Yes</b>	<b>No</b>
<b>Tile/Terrazzo Worker/Marble Mason</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Yes</b>	<b>No</b>
<b>Traffic Barrier Erector (See Laborers)</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Yes</b>	<b>No</b>
<b>Truck Driver</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Yes</b>	<b>No</b>
<b>Well Driller</b> (see also Operating Engineer)	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Yes</b>	<b>No</b>
<b>Other*:</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Yes</b>	<b>No</b>
	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Yes</b>	<b>No</b>
	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Yes</b>	<b>No</b>
	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Yes</b>	<b>No</b>

I affirm I am fully authorized to acknowledge, on behalf of the Contractor listed above, the anticipated workforce, and acknowledge that changes to the anticipated workforce which may have an impact on compliance with the Nevada Apprenticeship Utilization Act, 2019 will require the submittal of a revised form within ten (10) working days of such change.

Signed:  \_\_\_\_\_

Name and Title: Ryan Flickinger, President

Date: 1/07/2021

Contractor Name: Triumph Electric

## **FEMA Public Assistance Program Requirements**

**Below are additional guidelines/requirements under the FEMA Public Assistance Program.**

2 CFR Part 200.318, formerly 7 CFR Part 3016.36(b) (3), State Procurement Code and Regulations, and Carson City Purchasing.

The City of Carson City seeks to conduct all procurement procedures:

- In compliance with state and federal regulations; and
- to prohibit conflicts of interest and actions of employees engaged in the selection, award and administration of contracts.

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal, State, or local award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

No member of the Board of Supervisors or any of its employees shall accept any commission, expense-paid trip, or anything of material value from any individual, company partnership, corporation, or any organization supplying or seeking to supply equipment, supplies or services to the City for any purpose except those minor items of nominal value that are widely distributed by the individual company, etc., as part of a public relations or advertising program.

Violations of such standards by officers, employees, or agents of the non-Federal entity will be subject to legal action under Nev. Rev. Statute 332.810.2

The City procedures seek to avoid acquisition of unnecessary duplicative items. Consideration is given to consolidating or breaking out procurements, provided proper bid thresholds are upheld as per State and Federal Regulations to obtain a more economical purchase. Where appropriate, an analysis will be made to determine the most economical approach.

### **Suspension and Debarment Clause**

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

### **Equal Opportunity Clause**

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, 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

**FEMA Public Assistance Program Requirements**

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 advertisements 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, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) 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 by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 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.

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such 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 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.

(8) The contractor will include the provisions of paragraphs (1) through (8) 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 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.

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41

**FEMA Public Assistance Program Requirements**

CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

*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.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

**If the Contract exceeds \$10,000:****Termination for Cause and Convenience**

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

**Procurement of Recovered Materials**

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**FEMA Public Assistance Program Requirements****If the Contract exceeds \$100,000:****Contract Work Hours and Safety Standard Act**

Contractor must comply with 40 U.S.C 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and one half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation.

**Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)**

Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

**If the Contract exceeds \$150,000:****Clean Air Act and the Federal Water Pollution Control Act**

Contractor agrees to comply with all applicable standards, order or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387), and will report violations to FEMA and the Regional Office of the Environmental Protection Agency (EPA).



**FEMA**

October 15, 2020

Kelli Anderson  
Alternate Governor's Authorized Representative  
Nevada Division of Emergency Management  
2478 Fairview Drive  
Carson City, Nevada 89701

Via: Email

Reference: Period of Performance Extension Approval  
4307-DR-NV

Dear Ms. Anderson:

This letter is in response to your September 14, 2020, request for a new Period of Performance (POP) for 4307-DR-NV. Our decision is to approve a one-year extension to March 27, 2022, according to Part VI, D.4, of the *2015 Hazard Mitigation Assistance Guidance*. The need for an extension is attributed to COVID-19 and procurement delays pertaining to HMGP #4307-3-3R, Carson City Emergency Generators.

An additional POP extension (12 months maximum) will require a written request 60 days before the POP end date, to be reviewed by FEMA Headquarters.

For questions, please contact Robert McCord, Hazard Mitigation Assistance Branch Chief, at [robert.mccord@fema.dhs.gov](mailto:robert.mccord@fema.dhs.gov) or Clayton Pang, HMA Specialist, at [clayton.pang@fema.dhs.gov](mailto:clayton.pang@fema.dhs.gov).

Sincerely,

David Stearrett  
Acting Director  
Mitigation Division  
FEMA, Region IX

cc: Janell Woodward, NDEM  
Susan Coyote, NDEM