



TO: SOUTHERN NEVADA DISTRICT BOARD OF HEALTH **DATE:** January 25,2024

RE: Construction Agreement between Southern Nevada Health District and KOR Building Group, LLC

PETITION #36-24

That the Southern Nevada District Board of Health *approve the construction Agreement between the Southern Nevada Health District and KOR Building Group, LLC to build a Behavioral Health Clinic at 280 South Decatur Blvd.*

PETITIONERS:

Fermin Leguen, MD, MPH, District Health Officer *FL*
Kim Saner, Deputy District Health Officer- Administration *KS*
Sean Beckham, Chief Facilities Officer *SB*

DISCUSSION:

The Southern Nevada Health District proposes to build a Behavioral Health Clinic at 280 South Decatur Blvd. Project was competitively bid on and awarded to KOR Building Group.

FUNDING:

The total cost of the project is \$698,456. The following is the funding breakdown.

- \$592,318 – grant funds
- \$106,138- general funds

AIA® Document A105® – 2017

Standard Short Form of Agreement Between Owner and Contractor

AGREEMENT C2400095 made as of the 1st day of July in the year 2024

BETWEEN the Owner:

Southern Nevada Health District
280 S. Decatur Blvd.
Las Vegas, Nevada 89107
Owner Representative: Sean Beckham

and the Contractor:

KOR Building Group, LLC
2670 Chandler Avenue, Suite 10
Las Vegas, Nevada 89120

for the following Project:

Behavioral Health Clinic Remodel
280 S. Decatur Blvd.
Las Vegas, Nevada 89107
Public Works Project #PWP-CL-2024-080

The Architect:

(Name, legal status, address and other information)

Broyles International, LLC doing business as IZ Design Studio
7229 West Sahara Ave.
Las Vegas, Nevada 89117

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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ARTICLE 1 THE CONTRACT DOCUMENTS

The Contractor shall complete the Work described in the Contract Documents for the Project. The Contract Documents consist of

- .1 this Agreement signed by the Owner and Contractor;
- .2 the drawings and specifications prepared by the Architect, dated as shown below, and enumerated as follows:

Drawings:		
Number	Title	Date
G000	Cover	4/20/2022
G100	Egress	4/20/2022
SP100	Specification	4/20/2022
SP101	Specification	4/20/2022
AD101	Demolition Floor Plan	4/20/2022
AD300	Reflected Ceiling Demolition	4/20/2022

	Plan	
A100	Floor Plan and Accessibility	4/20/2022
A150	Schedules and Wall Types	4/20/2022
A200	Interior Elevations and Sections	4/20/2022
A250	Finish Floor Plan	4/20/2022
A300	Reflected Ceiling Plan	4/20/2022
A400	Roof Plan	4/20/2022
M000	Symbol List and Abbreviations	3/22/2022
M001	Specifications	3/22/2022
M002	Schedules	3/22/2022
M003	Diagrams	3/22/2022
MD100	Demolition Mechanical Plan	3/22/2022
M100	Mechanical Plan	3/22/2022
E000	Symbol List	3/22/2022
E001	Specifications	3/22/2022
E002	Single Line Diagram	3/22/2022
E003	Panel Schedules	3/22/2022
E004	Lighting Fixture Schedule and Compliance Certificate	3/22/2022
ES100	Electrical Overall Plan	3/22/2022
ED100	Demolition Power Plan	3/22/2022
ED300	Demolition Lighting Plan	3/22/2022
E100	Power and Signal Plan	3/22/2022
E300	Lighting Plan	3/22/2022

(Paragraphs deleted)

.3 addenda prepared by the Architect as follows:

Number	Date	Pages
Addendum #1 to 24ITB005	November 7, 2023	1
Addendum #2 to 24ITB005	November 17, 2023	1

.4 written orders for changes in the Work, pursuant to Article 10, issued after execution of this Agreement; and

.5 other documents, if any, identified as follows:

Invitation to Bid for Construction Services, Behavioral Clinic Remodel 24ITB0005 dated 10/17/2023
 KOR Building Group, LLC's response to 24ITB0005 dated November 27, 2023
 KOR Building Group, LLC's Post Selection Revised Bid dated April 24, 2024

.6 Other documents, listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Agreement and are fully part of the Agreement as if attached to this Agreement or repeated herein. This Agreement represents the entire and integrated agreement between Parties and supersedes prior negotiations, representations or agreements, either written or oral. A Modification is (1) a written amendment to the Agreement signed by both Parties; (2) a Change Order; (3) a Construction Change Directive; or (4) a written order for a Minor Change in the Work issued by Owner Representative.

If there should be a conflict between two or more of the Contract Documents, the conflict shall be resolved by complying with the provision most favorable to the Owner. The Owner shall make such determination in its sole discretion.

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The Contract Time is the number of calendar days available to the Contractor to substantially complete the Work.

§ 2.2 Date of Commencement:

(Paragraphs deleted)

The Date of Commencement of the Work shall be July 1, 2024

§ 2.3 Substantial Completion:

Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion, as defined in Section 12.5, of the entire Work:

(Check the appropriate box and complete the necessary information.)

Not later than () calendar days from the date of commencement.

By the following date: June 30, 2025

ARTICLE 3 CONTRACT SUM

§ 3.1 The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work. Subject to additions and deductions in accordance with Article 10, the Contract Sum is:

The Total Not-to-Exceed Amount of this contract is Six-Hundred-Ninety-Eight Thousand, Four-Hundred Fifty-Six Dollars-(\$698,456). Payment will be made using Grant funds as described in Attachment A, Requirements for Non-Federal Procurement Contractors Receiving Payment Made with Federal Funds in the amount of \$592,318; this accounts for 85% of the Total Not-to-Exceed Amount. The remaining 15% will be paid to Contractor with Owner's Capital Improvement Funds.

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

ARTICLE 4 PAYMENTS

§ 4.1 Based on Contractor's Applications for Payment certified by the Owner Representative, the Owner shall pay the Contractor, in accordance with Article 12, as follows:

(Paragraphs deleted)

§ 4.1.1 Based upon Applications for Payment submitted to the Owner Representative by the Contractor and Certificate for Payment issued by the Owner Representative, the Owner shall make progress payment on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 4.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 4.1.3 Provided that an Application for Payment is received by Owner Representative not later than the twenty-fifth day of a month, the Owner shall make payment of the certified amount to Contractor not later than the thirtieth day of the following month. If an Application for Payment is received after the application date fixed above, payment shall be made by Owner not later than thirty (30) days after Owner Representative receives the Application for Payment.

§ 4.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner Representative may require. This schedule, unless objected to by Owner Representative, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 4.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 4.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of ~~five~~ percent (5%). Pending final determination of cost to Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 12.6.
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of Five percent (5 %);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Owner Representative has withheld or nullified a Certificate for Payment as provided in Section 12.3.

§ 4.1.7 The progress payment amount determined in accordance with Section 4.1.6 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Owner Representative shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
- .2 If after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of Contractor by issuance of Change Orders affecting final completion, and Owner Representative so confirms, Owner shall, upon application by Contractor and certification by Owner Representative, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Owner Representative prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 4.1.8 Reduction or limitation of retainage, if any, shall be as follows:

After Fifty percent (50%) of the work required by the contract has been performed, Owner may pay to Contractor any of the remaining payments without withholding any additional retainage; and any amount of any retainage that was withheld from previous payments, if, in the opinion of Owner, satisfactory progress is being made in the work.

§ 4.1.9 Except with the Owner's prior approval, Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

ARTICLE 5 INSURANCE

§ 5.1 The Contractor shall maintain the following types and limits of insurance until the expiration of the period for correction of Work as set forth in Section 14.2, subject to the terms and conditions set forth in this Section 5.1:

§ 5.1.1 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than One Million Dollars (\$ 1,000,000) Bodily Injury each person, One Million Dollars (\$1,000,000) Bodily Injury each occurrence, One Million Dollars (\$ 1,000,000) Property Damage each occurrence, One Million Dollars (\$1,000,000) Combined Single Limit, and Two Million Dollars (\$ 2,000,000) general.

§ 5.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than Five-Hundred Thousand Dollars each person/One-Million Dollars each accident (\$ 500,000 each person/\$1,000,000 each accident) for bodily injury, death of any person, and property damage arising out of the

ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

§ 5.1.3 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 5.1.1 and 5.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 5.1.4 Workers' Compensation at statutory limits.

§ 5.1.5 Employers' Liability with policy limits not less than One-Million Dollars (\$ 1,000,000) each accident, One-Million Dollars (\$ 1,000,000) each employee, and One-Million Dollars (\$ 1,000,000) policy limit.

§ 5.1.6 The Contractor shall provide builder's risk insurance to cover the total value of the entire Project on a replacement cost basis.

§ 5.1.7 Other Insurance Provided by the Contractor

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Coverage	Limits
Pollution Liability	\$2,000,000 each incident/\$2,000,000 aggregate

§ 5.2 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance and shall provide property insurance to cover the value of the Owner's property. The Contractor is entitled to receive an increase in the Contract Sum equal to the insurance proceeds related to a loss for damage to the Work covered by the Owner's property insurance.

§ 5.3 The Contractor shall obtain an endorsement to its Commercial General Liability insurance policy to provide coverage for the Contractor's obligations under Section 8.12. Contractor shall name Owner as Additional Insured.

§ 5.4 Prior to commencement of the Work, each party shall provide certificates of insurance showing their respective coverages.

§ 5.5 Unless specifically precluded by the Owner's property insurance policy, the Owner and Contractor waive all rights against (1) each other and any of their subcontractors, suppliers, agents, and employees, each of the other for damages caused by fire or other causes of loss to the extent those losses are covered by property insurance or other insurance applicable to the Project, except such rights as they have to the proceeds of such insurance.

§ 5.6 Performance Bond and Payment Bond.

§ 5.6.1. The Owner shall have the right to require Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Agreement.

§ 5.6.2. Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Agreement, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

ARTICLE 6 GENERAL PROVISIONS

§ 6.1 The Agreement

The Agreement represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification in accordance with Article 10.

§ 6.2 The Work

The term "Work" means the construction and services required by the Contract Documents, and includes all other labor, materials, equipment, and services provided, or to be provided, by the Contractor to fulfill the Contractor's obligations.

§ 6.3 Intent

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all.

§ 6.4 Ownership and Use of Architect's Drawings, Specifications and Other Documents

Documents prepared by the Architect are instruments of the Architect's service for use solely with respect to this Project. The Architect shall retain all common law, statutory, and other reserved rights, including the copyright. The Contractor, subcontractors, sub-subcontractors, and suppliers are authorized to use and reproduce the instruments of service solely and exclusively for execution of the Work. The instruments of service may not be used for other Projects or for additions to this Project outside the scope of the Work without the specific written consent of the Architect.

§ 6.5

(Paragraphs deleted)

Notices/NOTICES. All notices permitted or required under this Agreement shall be made via hand delivery, overnight courier, or U.S. certified mail, return receipt requested, to the other Party at its address as set out below:

Southern Nevada Health District
Contract Administrator
Legal Department
280 S. Decatur Blvd
Las Vegas, NV 89107

KOR Building Group, LLC
Attn: Rebecca Fountain
2670 Chandler Ave, Ste. 10
Las Vegas, NV 89120

ARTICLE 7 OWNER

§ 7.1 Information and Services Required of the Owner

§ 7.1.1 If requested by the Contractor, the Owner shall furnish all necessary surveys and a legal description of the site.

§ 7.1.2 Except for permits and fees under Section 8.7.1 that are the responsibility of the Contractor, the Owner shall obtain and pay for other necessary approvals, easements, assessments, and charges.

(Paragraph deleted)

§ 7.2 Owner's Right to Stop the Work

If Contractor fails to correct Work which is not in accordance with the Contract Documents, Owner may direct the Contractor in writing to stop the Work until the correction is made.

§ 7.3 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, correct such deficiencies. In such case, the Owner Representative may withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the cost of correction, provided the actions of the Owner and amounts charged to the Contractor were approved by the Owner Representative.

§ 7.4 Owner's Right to Perform Construction and to Award Separate Contracts

§ 7.4.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project.

§ 7.4.2 The Contractor shall coordinate and cooperate with the Owner's own forces and separate contractors employed by the Owner.

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ARTICLE 8 CONTRACTOR

§ 8.1 Review of Contract Documents and Field Conditions by Contractor

§ 8.1.1 Execution of the Agreement by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 8.1.2 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies, or omissions discovered to the Owner Representative.

§ 8.2 Contractor's Construction Schedule

The Contractor, promptly after being awarded the Agreement, shall prepare and submit for the Owner's information a Contractor's construction schedule for the Work.

§ 8.3 Supervision and Construction Procedures

§ 8.3.1 The Contractor shall supervise and direct the Work using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work.

§ 8.3.2 The Contractor, as soon as practicable after award of the Agreement, shall furnish in writing to the Owner, through the Owner Representative, the names of subcontractors or suppliers for each portion of the Work. The Contractor shall not contract with any subcontractor or supplier to whom the Owner has made a timely and reasonable objection.

§ 8.4 Labor and Materials

§ 8.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work.

§ 8.4.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Agreement Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

§ 8.5 Warranty

The Contractor warrants to the Owner that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents. Any material or equipment warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 12.5.

§ 8.6 Taxes

The Contractor shall pay sales, consumer, use, and similar taxes that are legally required when the Agreement is executed.

§ 8.7 Permits, Fees and Notices

§ 8.7.1 At Contractor's sole expense, Contractor shall procure and maintain for the duration of this Agreement building permit(s) and other permits and governmental fees, licenses, and inspections necessary for proper execution and completion of the Work.

§ 8.7.2 Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the Owner Representative in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules, and regulations.

§ 8.8 Submittals

The Contractor shall promptly review, approve in writing, and submit to the Owner Representative shop drawings, product data, samples, and similar submittals required by the Contract Documents. Shop drawings, product data, samples, and similar submittals are not Contract Documents.

§ 8.9 Use of Site

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents, and the Owner.

§ 8.10 Cutting and Patching

The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly.

§ 8.11 Cleaning Up

The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work, its employees, or subcontractors. Upon completion of each day, Contractor shall be responsible for the organization, cleanup, or removal of all unused materials, tools, equipment, surplus materials, scraps and debris relating to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery, and surplus material; and shall properly dispose of all waste materials.

§ 8.12 Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Owner's consultants, and agents and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

ARTICLE 9 ARCHITECT

§ 9.1 Upon request by the Owner Representative, the Architect will promptly review and approve or take appropriate action upon Contractor's submittals, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 9.2 Upon request by the Owner Representative, Architect will visit the site at intervals to become generally familiar with the progress and quality of the Work.

§ 9.3 The Architect will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

§ 9.4 Upon written request from the Owner Representative, Architect will promptly interpret and decide matters concerning performance under, and requirements of, the Contract Documents.

§ 9.5 Architect will make interpretations and decisions consistent with the intent of, and reasonably inferable from the Contract Documents, and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.

§ 9.6 The Architect's duties, responsibilities, and limits of authority as described in the Contract Documents shall not be changed without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

(Paragraphs deleted)

ARTICLE 10 CHANGES IN THE WORK

§ 10.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, and the Contract Sum and Contract Time shall be adjusted accordingly, in writing. If the Owner and Contractor cannot agree to a change in the Contract Sum, the Owner shall pay the Contractor its actual cost, plus reasonable overhead and profit.

§ 10.2 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to equitable adjustment.

(Paragraph deleted)

ARTICLE 11 TIME

§ 11.1 Time limits stated in the Contract Documents are of the essence of the Agreement.

§ 11.2 If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes beyond the Contractor's control, the Contract Time shall be subject to equitable adjustment.

§ 11.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the responsible party.

ARTICLE 12 PAYMENTS AND COMPLETION

§ 12.1 Contract Sum

The Contract Sum stated in this Agreement, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 12.2 Applications for Payment

§ 12.2.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Owner Representative an itemized Application for Payment for Work completed in accordance with the values stated in this Agreement. Such Application shall be supported by data substantiating the Contractor's right to payment as the Owner may reasonably require, such as evidence of payments made to, and waivers of liens from, subcontractors and suppliers. Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing.

§ 12.2.2 Based on the Owner's observations and evaluations of Contractor's Application for Payment, Owner Representative will advise Owner of any exceptions noted. Owner Representative has authority to reject Work that does not conform to the Contract Documents.

§ 12.2.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or other encumbrances adverse to the Owner's interests.

§ 12.3 Certificates for Payment

The Owner Representative will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; (2) issue to the Owner a Certificate for Payment for such amount as the Owner Representative determines is properly due, and notify the Contractor and Owner in writing of the Owner Representative's reasons for withholding certification in part; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Owner Representative's reason for withholding certification in whole. If certification or notification is not made within such seven day period, the Contractor may, upon seven additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time and the Contract Sum shall be equitably adjusted due to the delay.

§ 12.4 Progress Payments

§ 12.4.1 After the Owner Representative has issued a Certificate for Payment, the Owner shall make payment in the manner provided in the Contract Documents.

§ 12.4.2 The Contractor shall promptly pay each subcontractor and supplier, upon receipt of payment from the Owner, an amount determined in accordance with the terms of the applicable subcontracts and purchase orders.

§ 12.4.3 Neither the Owner nor Owner Representative shall have responsibility for payments to a subcontractor or supplier.

§ 12.4.4 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.

§ 12.5 Substantial Completion

§ 12.5.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

§ 12.5.2 When the Work or designated portion thereof is substantially complete, Contractor will notify the Owner Representative and the Owner Representative will make an inspection to determine whether the Work is substantially complete. When the Owner Representative determines that the Work is substantially complete, the Owner Representative shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, establish the responsibilities of the Owner and Contractor, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 12.6 Final Completion and Final Payment

§ 12.6.1 Upon receipt of a final Application for Payment, the Owner Representative will inspect the Work. When the Owner Representative finds the Work acceptable and the Contract fully performed, the Owner Representative will promptly issue a final Certificate for Payment.

§ 12.6.2 Final payment shall not become due until the Contractor submits to the Owner Representative releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests, or encumbrances arising out of the Contract.

§ 12.6.3 Acceptance of final payment by the Contractor, a subcontractor or supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 13 PROTECTION OF PERSONS AND PROPERTY

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Agreement. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees on the Work and other persons who may be affected thereby, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

ARTICLE 14 CORRECTION OF WORK

§ 14.1 The Contractor shall promptly correct Work rejected by the Owner Representative as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement, and additional testing.

§ 14.2 In addition to the Contractor's other obligations including warranties under the Agreement, the Contractor shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents.

§ 14.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 7.3.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Assignment of Agreement

Neither party to the Agreement shall assign the Contract as a whole without written consent of the other.

§ 15.2 Tests and Inspections

§ 15.2.1 At the appropriate times, the Contractor shall arrange and bear cost of tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 15.2.2 If the Owner Representative requires additional testing, the Contractor shall perform those tests.

§ 15.2.3 The Owner shall bear cost of tests, inspections, or approvals that do not become requirements until after the Agreement is executed. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 15.3 Governing Law

The Agreement and the rights and obligations of the Parties shall be governed by, and construed according to the laws of the State of Nevada, notwithstanding conflict of laws principles, with Clark County, Nevada as the exclusive venue of any action or proceeding related to or arising out of this Agreement.

ARTICLE 16 TERMINATION OF THE CONTRACT

§ 16.1 Termination by the Contractor

If the Work is stopped under Section 12.3 for a period of 14 days through no fault of the Contractor, the Contractor may, upon seven additional days' written notice to the Owner, terminate the Agreement and recover from the Owner payment for Work executed including reasonable profit, and actual costs incurred by reason of such termination.

§ 16.2 Termination by the Owner for Cause

§ 16.2.1 The Owner may terminate the Agreement if the Contractor ceases work or fails to adhere to the Contract Time for a continuous and uncorrected period of thirty (30) days; fails to permit any aspect of the Work in accordance with the contract documents; repeatedly refuses or fails to supply enough properly skilled workers or proper materials; fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the subcontractors; persistently disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; performs the Work in a manner that is continuously rejected, without Contractor correction; files bankruptcy or assigns assets for the benefit of creditors, becomes insolvent, or is unable or fails to pay its obligations as they mature; or is otherwise guilty of substantial breach of a provision of the Contract Documents.

§ 16.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may

- .1 take possession of the site and of all materials thereon owned by the Contractor, and
- .2 finish the Work by whatever reasonable method the Owner may deem expedient.

§ 16.2.3 When the Owner terminates the Agreement for one of the reasons stated in Section 16.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 16.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Agreement.

§ 16.3 Termination by the Owner for Convenience

The Owner may, at any time, terminate the Agreement for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

ARTICLE 17 OTHER TERMS AND CONDITIONS

§ 17.1 Appropriation of Funds: The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the Owner for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the Owner, this Agreement shall terminate, without penalty or expense to the Owner of any kind whatsoever, upon written notice being given by the Owner to the Contractor. Upon receipt of such notice, the Contractor shall take immediate action to mitigate any damage or additional expense.

§ 17.2 Conflict of Interest: By submitting a Proposal, Proposer certifies it has had no contact with an employee or Board member of the Owner in any manner which would give Contractor any advantage over any other Proposer. Owner's employees and Board members shall not receive any compensation, in any manner or form, nor have any interest, direct or indirect, of any kind or nature inconsistent with loyal service to the public. A violation of any of the above is grounds for rejection without further consideration.

§ 17.3 Public Records: Pursuant to Nevada Revised Statutes ("NRS") Chapter 239, information or documents, including this Agreement, and any other documents generated incidental thereto may be opened by Owner to public inspection and copying. Owner will have a duty to disclose unless a particular record is made confidential by law or common law balancing of interests.

§ 17.5 Authority: Owner and Contractor each represent and warrant to each other that each respectively has the authority to execute and deliver this Agreement and perform their respective obligations thereunder and that the execution, delivery and performance of this Agreement have been duly authorized by all necessary action by each respective Party.

§ 17.6 Severability: If any provision contained in this Agreement is held to be unenforceable by a court of law or equity, this Agreement 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 Agreement unenforceable.

§ 17.7 Mutual Cooperation: The Parties agree to cooperate fully in furtherance of this Agreement and provide assistance to one another in the investigation and resolution of any complaints, claims, actions or proceedings that may arise out of the provision of Services hereunder.

§ 17.7.1 The Parties shall take any additional acts or sign any additional documents as is reasonably necessary, appropriate, or convenient to achieve the purposes of this Agreement.

§ 17.8 Non-Exclusivity: This Agreement is non-exclusive and both Parties remain free to enter into similar agreements with third parties. Contractor may, during the term of this Agreement or any extension thereof, perform services for any other clients, persons, or companies as Contractor sees fit, so long as the performance of such services does not interfere with Contractor's performance of obligations under this Agreement, and does not, in the opinion of Owner, create a conflict of interest.

§ 17.9 Limited Liability: Owner will not waive and intends to assert available NRS Chapter 41 liability limitations in all cases. Agreement liability of Owner and/or Contractor shall not be subject to punitive damages. To the extent applicable, actual agreement damages for any breach shall be limited by NRS 335.260 and NRS 354.626.

§ 17.10 Non-Discrimination: During the performance of this Agreement, Contractor and its subcontractors shall not deny the Agreement's benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability; nor shall they discriminate unlawfully against any employee or applicant for employment because of race, sex, color, religion, age, ancestry, national origin, marital status, status as a disabled veteran, or veteran of the Vietnam era, disability, sexual orientation or gender identity or expression. Likewise, Owner and Contractor agree that each will comply with all state and federal employment discrimination statutes, including but not limited to Title VII, and the American with Disabilities Act.

§ 17.10.1 Contractor shall include the nondiscrimination and compliance provisions of Section 17.10 in all subcontracts to perform Work under the Agreement.

§17.11 Relationship of the Parties. The Parties agree that the contractual relationship of Contractor to Owner is one solely of an independent contractor in all respects and that this Agreement and/or any other Contract Documents do not in any way create a partnership, joint venture, employer/co-employer, or any other relationship between Owner and Contractor other than the contractual relationship as specified in this Agreement.

§17.12 Owner's Name and Logo: Contractor may not use Owner's name, mark, logo, design or other Owner symbol for any purpose without Owner's prior written consent. Contractor agrees that Owner, in its sole discretion, may impose restrictions on the use of its name and/or logo. Owner retains the right to terminate, with or without cause, Contractor's right to use the Owner's name and/or logo.

§17.13 Certification, Restriction of Boycott of Israel: Pursuant to NRS 332.065, Contractor certifies that it is not currently engaged in, and agrees for the duration of the Agreement not to engage in, a boycott of Israel.

§17.14 Prevailing Wage.

§17.14 .1 Contractor acknowledges that both NRS Chapter 338 (as detailed in the below Subsection 17.14.2) and the Davis-Bacon Act 40 U.S.C. 3141-3148 (as detailed in the below Subsection 17.14.3) are applicable to this Agreement. Contractor is responsible for determining which provision allows for higher payment of prevailing wages to Contractor's employees (and to its subcontractors' employees) as applicable, and for ensuring payment of the prevailing wage rate most favorable to affected Contractor employees (and its subcontractors' employees).

§17.14 .2 Contractor shall ensure that all of its employees (and subcontractor employees, as applicable) assigned to the Project are paid at least the Prevailing Wages for Clark County, Nevada, as established by the State of Nevada through its Office of the Labor Commissioner. In providing the Services under this Agreement, Contractor agrees to comply as applicable with Chapter 338 of both NRS and Nevada Administrative Code ("NAC"), including but not limited to the State of Nevada's Prevailing Wage Act, NRS §§ 338.020-090 and Certified Payroll requirements pursuant to NAC §§ 338.094-098.

§17.14 .3 Davis-Bacon Act, as amended (40 U.S.C. 3141-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). Contractor (and all of its subcontractors) is/are required as applicable to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractor (and all of its subcontractors) is/are required to pay wages not less than once a week.. Contractor must promptly report all suspected or reported violations to Owner.

§17.15 Apprenticeships. Contractor agrees to ensure its compliance (and its subcontractors' compliance as applicable) with Nevada's Apprenticeship Utilization Act pursuant to NRS 338.040.

§17.16 Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). Contractor (and Contractor's subcontractors) is/are prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. Contractor must promptly report all suspected or reported violations to Owner.

§17.17 Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Contractor agrees to 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, Contractor (and its subcontractors) must 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 a 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.

§17.18 Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contractor agrees to comply with all applicable standards, orders 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). Further, Contractor agrees to ensure its subcontractors comply as applicable. Violations must be promptly reported to Owner and the Regional Office of the Environmental Protection Agency (EPA).

§17.19 Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractor certifies to Owner 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. Contractor must promptly disclose to Owner any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures will be forwarded by Owner to the funding federal agency. Contractor agrees to flow this certification/requirement down to its subcontractors as applicable.

§17.20 Statement of Eligibility. Each Party acknowledges to the best of its respective knowledge, information, and belief, and to the extent required by law, neither it nor any of its employees/contractors is/are: i) currently excluded, debarred, suspended, or otherwise ineligible to participate in federal health care programs or in federal procurement or non-procurement programs; and ii) has/have not been convicted of a federal or state offense that falls within the ambit of 42 USC 1320a-7(a).

§17.21 Counterparts: This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but which together shall constitute one instrument. Facsimile or electronic transmissions of documents and signatures shall have the same force and effect as originals.

§17.22 Code of Conduct. By executing the Agreement, Contractor acknowledges it has read and agrees to comply as applicable with Health District's Code of Conduct, which is available online at <https://media.southernnevadahealthdistrict.org/download/FQHC-2020/20200129/20200129-VII-1-Code-of-Conduct-Booklet-Leguen-Signature.pdf>.

ARTICLE 18 CLAIMS AND DISPUTES

§18.1 CLAIMS

§18.1.1 DEFINITION

A Claim is a demand or assertion by one of the Parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Agreement. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the Party making the Claim.

§18.1.2 NOTICE OF CLAIMS

Claims by Owner or Contractor must be initiated by written notice to the other Party. Claims by either Party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after claimant first recognizes the condition giving rise to the Claim, whichever is later.

§18.1.3 CONTINUING CONTRACT PERFORMANCE

Pending final resolution of a Claim, except as otherwise agreed in writing, Contractor shall proceed diligently with performance of the Agreement and Owner shall continue to make payments in accordance with the Contract Documents. Claims by Owner or Contractor must be initiated by written notice to the other Party. Claims by either Party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after claimant first recognizes the condition giving rise to the Claim, whichever is later.

§18.1.4 CLAIMS FOR ADDITIONAL COST

If Contractor wishes to make a Claim for an increase in the Contract Sum, written notice will be delivered promptly to Owner Representative before proceeding to execute the Work. Prior notice is not required for claims relating to an emergency endangering life or property, in which case Contractor shall act, at Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by Contractor on account of an emergency shall be determined as provided in this Article 18.

§18.1.4 CLAIMS FOR ADDITIONAL TIME

If Contractor wishes to make a Claim for additional Contract Time, written notice will be delivered promptly to Owner. Contractor's Claim shall include an estimate of cost and probably effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§18.1.4.1 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

§18.1.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Agreement. This mutual waiver includes

- .1 damages incurred by Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business, and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either Party's termination in accordance with the Agreement.

§18.2 INITIAL DECISION

§18.2.1 Claims shall be referred to the Initial Decision Maker for initial decision. The Owner Representative will serve as the Initial Decision Maker. Except for those Claims excluded by this Article 18, an initial decision shall be required as a condition precedent to the mediation of any Claim arising prior to the date final payment is due, unless thirty (30) days have passed after the Claim has been referred to the Initial Decision Maker with no decision having been rendered. Unless the Initial Decision Maker and all affected Parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§18.2.2 The Initial Decision Maker will review Claims and within ten (10) days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other Party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the Parties that the Initial Decision Maker is unable to resolve the Claim if the initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§18.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§18.2.4 If the Initial Decision Maker requests a Party to provide a response to a Claim or to furnish additional supporting data, such Party shall respond, within ten (10) days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished or (3) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§18.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the Parties of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the Parties but subject to mediation and, if the Parties fail to resolve their dispute through mediation, to binding dispute resolution.

§18.2.6 Either Party may file for mediation of an initial decision at any time, subject to the terms of Subsection 18.2.6.1.

§ 18.2.6.1 Either Party may, within 30 days from the date of an initial decision, demand in writing that the other Party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both Parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 18.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner

may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 18.2.8 If a Claim relates to or is the subject of a mechanic's lien, the Party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§18.3 MEDIATION

§18.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Agreement except those waived as provided for in this Article 18 shall be subject to mediation as a condition precedent to binding dispute resolution.

§18.3.2 The Parties shall endeavor to resolve their Claims by mediation which, unless the Parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the Parties or court order. If an arbitration is stayed pursuant to this Section 18.3.2, the Parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§18.3.3 The Parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in Las Vegas, Nevada. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§18.4 ARBITRATION

§18.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other Party to the Agreement, and filed with the person or entity administering the arbitration. The Party filing a notice of demand for arbitration must assert in the demand all Claims then known to that Party on which arbitration is permitted to be demanded.

§ 18.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 18.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 18.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by Parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

ARTICLE 19 REQUIREMENTS FOR NON-FEDERAL ENTITIES RECEIVING PAYMENT MADE WITH FEDERAL FUNDS

§19.1 As a procurement contractor receiving payment made with federal funds, Contractor agrees to comply as applicable with the following requirements. Additionally, Contractor agrees to incorporate the provisions of Article 19 into any and all subcontracts relating to this Agreement:

§19.1.1 45 CFR § 75.326 Procurement by States. When procuring property and services under a federal award, a state (or political subdivision of a state) must follow the same policies and procedures it uses for procurements from its non-federal funds. A state receiving federal funds will comply with § 75.331 and ensure that every purchase order or other contract includes any clauses required by § 75.335. All other non-federal entities, including sub-recipients of a state, must follow the procurement standards in §§ 75.327 through 75.335.

§19.1.2 Compliance with Procurement Standards. Contractor agrees to follow and comply with 45 CFR §§ 75.327 General Procurement Standards through 75.335 Contract Provisions as applicable.

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User Notes:

§19.1.3 Contract Provisions. In addition to other provisions required by HHS, Owner, and/or Contractor, all contracts made by Contractor under the Grant must contain provisions covering the following in accordance with Appendix II to 45 CFR Part 75, Contract Provisions for Non-Federal, Entity Contracts Under Federal Awards. Contractor agrees to follow and comply with all applicable contract provisions contained therein. These provisions may include the following:

§19.1.3.1 Remedies. Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation-adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

§19.1.3.2 Termination. All federally funded contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

§19.1.3.3 Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "Federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

§19.1.3.4 Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

§19.1.3.5 Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by a non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance 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 a 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 or transmission of intelligence.

§19.1.3.6 Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must

comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

§19.1.3.7 Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders 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). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

§19.1.3.8 Debarment and Suspension. (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Furthermore, each of Contractor's vendors and sub-contractors will certify that to the best of its respective knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

§19.1.3.9 Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more 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.

§19.1.3.10 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 by 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.

19.1.4. Contractor will ensure its compliance as applicable with the Investment and Jobs Act (IIJA), codified as Public Law 117-58 on November 15, 2021, and as may be amended from time to time; provisions of which as of the time of the execution of this Agreement are proposed by the federal Office of Management and Budget (OMB) to be adopted as new part 184 in 2 CFR Chapter I to support implementation of IIJA, and to further clarify existing requirements within 2 CFR 200.322. These proposed revisions are intended to improve uniformity and consistency in the implementation of "Build America, Buy America (BABA) requirements across government. OMB's proposed action, dated February 9, 2023, can be reviewed online at <https://www.federalregister.gov/documents/2023/02/09/2023-02617/guidance-for-grants-and-agreements>. Public Law 117-58 may be reviewed online at <https://www.congress.gov/bill/117th-congress/house-bill/3684/text>.

19.1.5 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment. Contractor certifies it is in compliance with 2 CFR §200.216 as published on August 13, 2020, and as may be amended from time to time, and Contractor has not and will not use federal funds to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract to procure or obtain;

- (i) equipment, services, or systems using covered telecommunications equipment or services as a substantial or essential component of any system, or as a critical technology as part of any system. As described in Public Law 115—232, Section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- (ii) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- (iii) Telecommunications or video surveillance services provided by such entities or using such equipment.
- (iv) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country. See Public Law 115—232, section 889 for additional information. See also 2 CFR §§200.216 and 200.471, as may be amended from time to time.

This Agreement entered into as of the day and year first written above.

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By:

OWNER (Signature)
Fermin Leguen, MD, MPH
District Health Officer

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By:

CONTRACTOR (Signature)
Rebecca Fountain
CEO/Owner

(Row deleted)

LICENSE NO.: 0078790
JURISDICTION: Nevada State Contractors Board

APPROVED AS TO FORM:

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Heather Anderson-Fintak, Esq.
General Counsel
Southern Nevada Health District