



**EL RANCHO SEWER CONSTRUCTION MANAGEMENT
CITY OF SPARKS, NEVADA**

THIS CONTRACT made and entered into on this 13th day of November, 2018, by and between the City of Sparks, Nevada, a municipal corporation, existing under and by virtue of the laws of the State of Nevada, hereinafter called "City", and **Poggemeyer Design Group, Inc.**, a qualified consultant in the class of work required, hereinafter called "Consultant".

W I T N E S E T H

WHEREAS, the City desires to engage Consultant in the performance of providing Professional Services which are more fully described in Consultant's Proposal dated October 19, 2018, attached hereto and incorporated herein by reference. (Hereinafter referenced to as "Proposal");

WHEREAS, Consultant's legal status is an Independent Contractor and Consultant is in good standing in the State of Nevada;

WHEREAS, Consultant desires to perform the Program under the terms and conditions set forth herein;

NOW, THEREFORE, IT IS AGREED as follows:

1. Scope of Work:

The scope of work for this contract is generally defined as **El Rancho Sewer Construction Management**.

The City's Contract Documents and Consultant's Entire Proposal are on file with the City of Sparks and may be located within "Attachment A." All terms, conditions and requirements contained in these Documents, including any and all addenda issued by the City, are hereby incorporated into this Contract. The work scope will include, but not be limited to the tasks outlined in Attachment A.

The Consultant shall perform within the time stipulated, the Contract as herein defined and shall provide and furnish any and all of the labor, materials, methods or processes, equipment implements, tools, machinery and equipment, and all utility, transportation and other services required to complete all of the work covered by the Contract in connection with strict accordance with the plans, specifications or proposals, which were approved by said City and are on file with the City, including any and all addenda issued by the City, and with the other contract documents hereinafter enumerated. Consultant will have the right to control or direct the manner and the order in which it provides the services contemplated under this Agreement.

Consultant represents and warrants that Consultant is engaged in an independent calling and has complied and will continue to comply with all local, state and federal laws regarding business permits and licenses that may be required to carry out the independent calling and to perform the services to be performed under this Agreement.

Consultant understands that the services it has been retained to perform may be dangerous or may entail a peculiar unreasonable risk of harm to others unless special precautions are taken and Consultant agrees to exercise reasonable care to take such precautions.



2. Payment for Project Services

As full consideration for the Professional Services to be performed by Consultant, City agrees to pay Consultant as set forth in accordance with the Fee Schedule set forth in the proposal and not to exceed fee of **\$117,456.55** for the project. The City will not hire or directly compensate the Consultant’s employees, assistants or subcontractors, if any. It is expressly understood and agreed that all work done by Consultant shall be subject to review as to its result by the City at the City’s discretion. Payment of any invoice shall not be taken to mean that the City is satisfied with Consultant’s services to the date of payment and shall not forfeit City’s right to require the correction of any service deficiencies.

3. Term

This Agreement shall become effective upon contract execution and will continue in effect until

MO/DY/YR, or

The Project is completed (Approximately _____), or unless earlier terminated as provided herein.

4. Time Devoted to Work:

In performing the services contemplated under this Agreement, the services and the hours Consultant is to work on any given day will be on a mutually agreed upon basis, except for attendance at scheduled meetings, and City will rely upon Consultant to put in such number of hours as is reasonably necessary to fulfill the spirit and purpose of this Agreement.

City understands that Consultant is engaged in the same or similar activities for others and that City may not be Consultant’s sole client or customer. However, Consultant represents and warrants that it is under no obligation or restriction, nor will it assume any such obligation or restriction, that would in any way interfere or be inconsistent with the services to be performed under this Agreement.

5. No Unfair Employment Practices:

In connection with the performance of work under this Agreement, Consultant agrees not to discriminate against any employee or applicant because of race, creed, color, national origin, sex, sexual orientation, disability or age. Any violation of these provisions by Consultant shall constitute a material breach of this contract.

6. No Illegal Harassment:

Violation of the City’s harassment policy, which is incorporated by reference and available from the Human Resources Division, by the Consultant, its officers, employees, agents, consultants, subcontractors and anyone for whom it is legally liable, while performing or failing to perform Consultant’s duties under this Contract shall be considered a material breach of this contract.

7. Lawful Performance:

Vendor shall abide by all Federal, State and Local Laws, Ordinances, Regulations, and Statutes as may be related to the performance of duties under this agreement. In addition, all applicable permits and licenses required shall be obtained by the vendor, at vendor’s sole expense.

8. Status of Consultant:

It is the intent of the parties that Consultant shall be considered an independent contractor and that



Consultant, and anyone else for whom it is legally liable, shall not be considered employees, servants or agents of the City for any purpose. Furthermore, this Agreement shall not be construed to create a partnership or joint venture between the Consultant and the City.

Neither Consultant nor any of its employees or contractors shall be eligible to participate in City's industrial insurance, unemployment, disability, medical, dental, life or other insurance programs, or any other benefit or program that is sponsored, financed or provided by City for its employees.

Consultant agrees that it shall be Consultant's exclusive responsibility to pay all federal, state, or local payroll, social security, disability, industrial insurance, self-employment insurance, income and other taxes and assessments related to this Agreement. Neither FICA (Social Security), FUTA (Federal Employment), nor local, state or federal income taxes will be withheld from payments to Consultant. Consultant shall at Consultant's expense pay and be fully liable and responsible for, and indemnify and hold harmless City from, any assessments, fines or penalties relating to Consultant's failure to uphold any of these responsibilities.

9. City Ownership of Proprietary Information:

All reports, drawings, plans, specifications, and other documents prepared by Consultant as products of service under this Agreement shall be the exclusive property of the City and all such materials shall be remitted to the City by Consultant in a timely manner upon completion, termination or cancellation of this Agreement. Consultant shall not use, willingly allow or cause to have such materials used for any purpose other than performance of Consultant's obligations under this Agreement without the prior written consent of the City.

10. Public Records:

Consultant understands that City is subject to the provisions of NRS 239.010. As such, the City may have the duty to disclose the Consultant's reports or recommendations.

11. Insurance:

BIDDERS' ATTENTION IS DIRECTED TO THE INSURANCE REQUIREMENTS BELOW. IT IS HIGHLY RECOMMENDED THAT BIDDERS CONFER WITH THEIR RESPECTIVE INSURANCE CARRIERS OR BROKERS TO DETERMINE IN ADVANCE OF BID SUBMISSION THE AVAILABILITY OF INSURANCE CERTIFICATES AND ENDORSEMENTS AS PRESCRIBED AND PROVIDED HEREIN. IF THE APPARENT LOW BIDDER FAILS TO COMPLY STRICTLY WITH THE INSURANCE REQUIREMENTS, THAT BIDDER MAY BE DISQUALIFIED FROM AWARD OF THE CONTRACT.

The City may, unless otherwise required by law, waive or reduce the insurance requirements itemized here, at the discretion of the city's Contracts and Risk Manager.

Should work be required on City premises or within the public right-of-way, upon award of the contract, the bidder shall provide proof of insurance for the types of coverage, limits of insurance and other terms specified herein, prior to initiation of any services under City, Bid, Proposal or Contract. Coverage shall be from a company authorized to transact business in the State of Nevada and the City of Sparks and shall meet the following minimum specifications:



Contractor shall at its own expense carry and maintain at all times the following insurance coverage and limits of insurance no less than the following or the amount customarily carried by Contractor or any of its subcontractors, whichever is greater. Contractor shall also cause each subcontractor employed by Contractor to purchase and maintain insurance of the type specified herein. All insurers must have AM Best rating not less than A-VII, and be acceptable to the City. Contractor shall furnish copies of certificates of insurance evidencing coverage for itself and for each subcontractor. Failure to maintain the required insurance may result in termination of this contract at City’s option. If Contractor fails to maintain the insurance as set forth herein, City shall have the right, but not the obligation, to purchase said insurance at Contractor’s expense.

Contractor shall provide proof of insurance for the lines of coverage, limits of insurance and other terms specified below prior to initiation of any services. Coverage shall be from a company authorized to transact business in the State of Nevada and the City of Sparks. Contractor and any of its subcontractors shall carry and maintain coverage and limits no less than the following or the amount customarily carried by Contractor or any of its subcontractors, whichever is greater.

Applicable to this Contract	Insurance Type	Minimum Limit	Insurance Certificate	Additional Insured	Waiver of Subrogation
Yes	General Liability/Umbrella (Excess) Liability	\$2,000,000	✓	✓	✓
Yes	Automobile Liability	\$1,000,000	✓	✓	
Yes	Workers’ Compensation	Statutory	✓	N/A	✓
Yes	Employer’s Liability	\$1,000,000	✓	N/A	
Yes	Professional Liability	\$1,000,000	✓	N/A	N/A
No	Pollution Legal Liability	\$1,000,000	✓	N/A	N/A

Commercial General Liability

Contractor shall carry and maintain Commercial General Liability (CGL) and, if necessary to meet required limits of insurance, commercial umbrella/excess liability insurance with a total limit of not less than the limits specified herein.

For contracts that are for the construction or improvement of public facilities, the Contractor shall obtain and maintain products and completed operations liability coverage through the statute of repose after completion of the project.

There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from pollution, explosion, collapse, underground property damage, employment-related practices, or damage to the named insured’s work unless Subcontractor carries and maintains separate policies providing such coverage and provides Contractor evidence of insurance confirming the



coverage.

Minimum Limits of Insurance

\$2,000,000 Each Occurrence Limit for bodily injury and property damage

\$2,000,000 General Aggregate Limit

\$2,000,000 Products and Completed Operations Aggregate Limit

\$10,000 Medical Expense Limit

If Commercial General Liability Insurance or other form with a general aggregate limit is used, it shall be revised to apply separately to this PROJECT or LOCATION.

Coverage Form

Coverage shall be at least as broad as the unmodified Insurance Services Office (ISO) Commercial General Liability (CGL) "Occurrence" form CG 00 01 04/13 or substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contractors, 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).

Additional Insured

City, its officers, agents, employees, and volunteers are to be included as insureds using the applicable ISO additional insured endorsement(s) or substitute forms providing equivalent coverage, in respects to damages and defense arising from: activities performed by or on behalf of Contractor, including the insured's general supervision of Contractor; products and completed operations of Contractor; premises owned, occupied, or used by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, employees, or volunteers. Additional insured status for City shall apply until the expiration of time within which a claimant can bring suit per applicable state law.

Any failure by the Contractor to comply with reporting provisions of the policies shall not affect its obligations to the additional insureds.

Primary and Non-Contributory

Contractor's insurance coverage shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to City, its officers, agents, employees, and volunteers. 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. Any insurance or self-insurance maintained by City, its officers, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it in any way.

Separation of Insureds

Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Waiver of Subrogation

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 agreement. Insurer shall endorse CGL policy as required to waive subrogation against the City with respect to any loss paid under the policy.

Endorsements

A policy form or endorsement is required confirming coverage for all required additional insureds. The endorsement for CGL shall be at least as broad as the unmodified ISO additional insured endorsement CG 20 10 11/85 or substitute forms providing additional insured coverage for products and completed operations.

A waiver of subrogation in favor of City shall be endorsed to the policy using an unmodified Waiver of Transfer of Rights of Recovery of Others to Us ISO CG 24 04 05 09, or a substitute form providing equivalent coverage.

If any underground work will be performed, Contractor shall maintain electronic data liability insurance applicable to the Project and insuring against liability arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data. This coverage shall be maintained with a limit of liability of not less than \$1,000,000 and provide coverage at least as broad as electronic data liability coverage form CG 04 37 (or substitute form providing equivalent coverage).

Business Automobile Liability

Minimum Limits of Insurance

\$1,000,000 Combined Single Limit per accident for bodily injury and property damage or the limit customarily carried by Contractor, whichever is greater. No aggregate limit may apply. Coverage may be combined with Excess/Umbrella Liability coverage to meet the required limit.

Coverage Form

Coverage shall be at least as broad as the unmodified Insurance Services Office (ISO) Business Automobile Coverage form CA 00 01 10/13, CA 00 25 10/13, CA 00 20 10/13 or substitute form providing equivalent coverage. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos).

Pollution liability coverage at least as broad as that provided under the ISO pollution liability—broadened coverage for covered autos endorsement (CA 99 48) shall be provided, and the Motor Carrier Act endorsement (MCS 90) shall be attached for all contracts involving transportation of “hazardous material” as this term is defined by applicable law, including, but not limited to, waste, asbestos, fungi, bacteria and mold.

Additional Insured

City, its officers, agents, employees, and volunteers are to be included as insureds with respect to damages and defense arising from the ownership, maintenance or use of automobiles owned, leased, hired, or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, employees, or volunteers. Additional insured status for City shall apply until the expiration of time within which a claimant can bring suit per applicable state law.



Endorsements

A policy endorsement is required listing all required additional insureds. The endorsement for Business Automobile Liability shall be at least as broad as the unmodified ISO CA 20 48 10/13 or a substitute form confirming City's insured status for Liability Coverage under the Who Is An Insured Provision contained in Section II of the coverage form ISO CA 00 01 10/13.

Workers' Compensation and Employer's Liability

Contractor shall carry and maintain workers' compensation and employer's liability insurance as required by NRS 616B.627 or provide proof that compliance with the provisions of Nevada Revised Statutes Chapters 616A-D and all other related chapters is not required. It is understood and agreed that there shall be no coverage provided for Contractor or any Subcontractor of the Contractor by the City. Contractor agrees, as a precondition to the performance of any work under this Agreement and as a precondition to any obligation of the City to make any payment under this Agreement to provide City with a certificate issued by an insurer in accordance with NRS 616B.627 and with a certificate of an insurer showing coverage pursuant to NRS 617.210.

It is further understood and agreed by and between City and Contractor that Contractor shall procure, pay for and maintain the above mentioned coverage at Contractor's sole cost and expense.

Should Contractor be self-funded for workers' compensation and employer's liability insurance, Contractor shall so notify City in writing prior to the signing of this Contract. City reserves the right to approve said retentions, and may request additional documentation, financial or otherwise, for review prior to the signing of this Contract.

Nevada law allows the following to reject workers' compensation coverage if they do not use employees or subcontractors in the performance of work under the contract:

- Sole proprietors (NRS 616B.627 and NRS 617.210)
- Unpaid officers of quasi-public, private or nonprofit corporations (NRS 616B.624 and NRS 617.207)
- Unpaid managers of limited liability companies (NRS 616B.624 and NRS 617.207)
- An officer or manager of a corporation or limited liability company who owns the corporation or company (NRS 616B.624 and NRS 617.207)

If a contractor has rejected workers' compensation coverage under applicable Nevada law, the contractor must indicate the basis for the rejection of coverage and complete, sign and have notarized an Affidavit of Rejection of Coverage. The Affidavit must be completed, signed and notarized prior to performance of any work.

Minimum Limits of Insurance

Workers' Compensation:	Statutory Limits
Employer's Liability:	\$1,000,000 Bodily Injury by Accident – Each Accident
	\$1,000,000 Bodily Injury by Disease – Each Employee
	\$1,000,000 Bodily Injury by Disease – Policy Limit



Coverage Form

Coverage shall be at least as broad as the unmodified National Council on Compensation Insurance (NCCI) Workers Compensation and Employer's Liability coverage form WC 00 00 07/11 or substitute form providing equivalent coverage.

OTHER INSURANCE COVERAGES (IF APPLICABLE)

Professional Liability Insurance (if Applicable) \$1,000,000 per occurrence limits of liability or whatever limit is customarily carried by the Contractor, whichever is greater, for design, design-build or any type of professional services with a minimum of three (3) years reporting of claims following completion of the project.

Contractors Pollution Liability Insurance (If Applicable)- \$1,000,000 per occurrence and \$2,000,000 aggregate or whatever amount is acceptable to the City for any exposure to "hazardous materials" as this term is defined in applicable law, including but not limited to waste, asbestos, fungi, bacterial or mold.

Lower tier sub-subcontractors, Truckers, Suppliers: Evidence confirming lower tier subcontractors, truckers and suppliers are maintaining valid insurance prior to beginning work on the project to meet the requirements set forth herein on Subcontractor, including but not limited to all additional insured requirements of Subcontractor.

ALL COVERAGES

Coverage shall not be suspended, voided, canceled, or non-renewed by either CONTRACTOR or by the insurer, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to CITY except for ten (10) days' notice for nonpayment of premium.

OTHER INSURANCE PROVISIONS

Should City and Contractor agree that higher coverage limits are needed warranting a project policy, project coverage shall be purchased and the premium for limits exceeding the above amount may be borne by City. City retains the option to purchase project insurance through Contractor's insurer or its own source.

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its officers, agents, employees, or volunteers.

ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a Best's rating of no less than A-VII and acceptable to the City.. City, with the approval of the Risk Manager, may accept coverage with carriers having lower Best's ratings upon review of financial information concerning Contractor and insurance carrier. City reserves the right to require that Contractor's insurer be a licensed and admitted insurer in the State of Nevada, or on the Insurance Commissioner's approved but not admitted list.

VERIFICATION OF COVERAGE

Contractor shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this contract. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.



Prior to the start of any Work, Contractor must provide the following documents to City of Sparks, Attention: Purchasing Division, P.O. Box 857, Sparks, NV 89432-0857:

- A. Certificate of Insurance.** Contractor must provide a Certificate of Insurance form to the City of Sparks to evidence the insurance policies and coverage required of Contractor.

- B. Additional Insured Endorsements.** An original Additional Insured Endorsement, signed by an authorized insurance company representative, must be submitted to the City of Sparks, by attachment to the Certificate of Insurance, to evidence the endorsement of the City of Sparks as additional insured.

- C. Policy Cancellation Endorsement.** Except for ten (10) days' notice for non-payment of premium, each insurance policy shall be endorsed to specify that without thirty (30) days prior written notice to the City of Sparks, the policy shall not be suspended, voided, cancelled or non-renewed, and shall provide that notices required by this paragraph shall be sent by certified mailed to the address specified above. A copy of this signed endorsement must be attached to the Certificate of Insurance.

- D. Bonds (as Applicable).** Bonds as required and/or defined in the original bid documents.

All certificates and endorsements are to be addressed to the City of Sparks, Purchasing Division and be received and approved by City before work commences. The City reserves the right to require complete certified copies of all required insurance policies at any time.

SUBCONTRACTORS

Contractor shall include all Subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each Subcontractor. All coverages for Subcontractors shall be subject to all of the requirements stated herein.

MISCELLANEOUS CONDITIONS

1. Contractor shall be responsible for and remedy all damage or loss to any property, including property of City, caused in whole or in part by Contractor, any Subcontractor, or anyone employed, directed, or supervised by Contractor.
2. Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payment of damages to persons or property resulting from its operations or the operations of any Subcontractors under it.
3. In addition to any other remedies City may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option:
 - a. Purchase such insurance to cover any risk for which City may be liable through the operations of Contractor under this Agreement and deduct or retain the amount of the premiums for such insurance from any sums due under the Agreement;
 - b. Order Contractor to stop work under this Agreement and/or withhold any payments which become due Contractor here under until Contractor demonstrates compliance



-
- with the requirements hereof; or,
- c. Terminate the Agreement.

12. Indemnity:

To the fullest extent permitted by law, upon award, Contractor shall hold harmless, indemnify, defend and protect City, its affiliates, officers, agents, employees, volunteers, successors and assigns (“Indemnified Parties”), and each of them from and against any and all claims, demands, causes of action, damages, costs, expenses, actual attorney’s fees, losses or liabilities, in law or in equity, of every kind and nature whatsoever (“Claims”) arising out of or related to any act or omission of Contractor, its employees, agents, representatives, or Subcontractors in any way related to the performance of work under this Agreement by Contractor, or to work performed by others under the direction or supervision of Contractor, including but not limited to:

1. Personal injury, including but not limited to bodily injury, emotional injury, sickness or disease, or death to persons;
2. Damage to property of anyone, including loss of use thereof;
3. Penalties from violation of any law or regulation caused by Contractor’s action or inaction;
4. Failure of Contractor to comply with the Insurance requirements established under this Agreement;
5. Any violation by Contractor of any law or regulation in any way related to the occupational safety and health of employees.

In determining the nature of the claim against City, the incident underlying the claim shall determine the nature of the claim, notwithstanding the form of the allegations against City.

If City’s personnel are involved in defending such actions, Contractor shall reimburse City for the time and costs spent by such personnel at the rate charged City for such services by private professionals.

In cases of professional service agreements, requiring professional liability coverage:

If the insurer by which a Consultant is insured against professional liability does not so defend the City and applicable agents and/or staff, and the Consultant is adjudicated to be liable by a trier of fact, the City shall be entitled to reasonable attorney’s fees and costs to be paid to the City by the Consultant in an amount which is proportionate to the liability of the of the Consultant.

Nothing in this contract shall be interpreted to waive nor does the City, by entering into this contract, waive any of the provisions found in Chapter 41 of the Nevada Revised Statutes.

13. Material Breach of Contract:

In the event Consultant fails to deliver the product and services as contracted for herein, to the satisfaction of the City of Sparks or otherwise fails to perform any provisions of this Contract, the City, after providing five (5) days written notice and consultant’s failure to cure such breach, may without waiving any other remedy, make good the deficiencies and deduct the actual cost of providing alternative products and/or services from payment due the Consultant. Non-performance after the first notice of non-performance shall be considered a material breach of contract.



14. Termination:

The City may terminate the Contract for material breach of contract upon ten (10) days written notice and recover all damages, deducting any amount still due the Consultant from damages owed to the City, or seek other remedy including action against all bonds. The Consultant may terminate the Contract for material breach of contract upon thirty (30) days written notice to the City.

Notwithstanding the preceding paragraph, the City may immediately terminate the Agreement, and Consultant waives any and all claim(s) for damages, upon the Consultant's receipt of notice under the following conditions:

- a) If funding is not obtained, continued, or budgeted at levels sufficient to allow for purchase of the services contemplated under this Agreement per Section 23 of this Agreement;
- b) If any federal, state or local law, including but not limited to, statutes, regulations, ordinances and resolutions, is interpreted by a third party judicial, legislative or administrative authority in such a way that the services contemplated under this Agreement are no longer authorized for purchase or appropriate for City financial participation;
- c) If Consultant fails to comply with any local, state or federal law regarding business permits and licenses required to perform the services to be performed under this Agreement or
- d) If it is found that any quid pro quo or gratuities were offered or given by the Consultant to any officer or employee of the City with a view towards securing favorable treatment with respect to awarding, extending, amending or making any determination with respect to the performance of this Agreement.

The indemnity and conflict resolution obligations of this Agreement shall survive the termination of this Agreement and shall be binding upon the parties' and the parties' legal representatives, heirs, successors and assigns.

The City may terminate this agreement for any reason without penalty upon giving thirty (30) days written notice to the Consultant. In the event of termination, the full extent of City liability shall be limited to an equitable adjustment and payment for materials and/or services authorized by and received to the satisfaction of the City prior to termination.

15. Licenses and Permits:

The Consultant shall procure at his own expense all necessary licenses and permits and shall adhere to all the laws, regulations and ordinances applicable to the performance of this Contract.

All consultants doing business within the City of Sparks are required to obtain and maintain a current business license from the City of Sparks prior to commencement of this contract. Per Sparks Municipal Code Section 5.08.020A: "It is unlawful for any person to transact business in the City without first having obtained a license from the City to do so and without complying with all applicable provisions of this title and paying the fee therefore."



16. Boycott of Israel (NRS 332.065) (This Section IS IS NOT Applicable to this bid):

Pursuant to NRS 332.065 any Contract entered into under NRS Chapter 332 in which the estimated annual dollar amount exceeds \$50,000 will require written certification that the bidder is not, and will not be, engaged in a Boycott of Israel throughout the duration of the Contract. The term “Boycott of Israel” has the meaning ascribed in NRS 332.065(5). Bidder certifies that it is not, and will not be, engaged in a Boycott of Israel throughout the duration of the Contract.

17. Drafting Presumption:

The parties acknowledge that this Agreement has been agreed to by both parties, that both parties have consulted or have had the opportunity to consult with attorneys with respect to the terms, and that no presumption shall be created against the City as the drafter of the Agreement.

18. Governing Law:

The laws of the State of Nevada shall govern this Agreement without regard to conflicts of law principles.

19. Jurisdiction and Venue:

Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement must be brought against either of the parties in the courts of the State of Nevada, County of Washoe. Each of the parties consents to the jurisdiction of the court (and of the appropriate appellate court) in any such action or proceeding and waives any objection to venue laid therein.

20. Claims:

Pursuant to NRS 268.020, which the parties agree to abide by contractually, all demands and accounts against the City must be presented to the Council, in writing, within six (6) months from the time the demands or accounts become due. No demand or account may be audited, considered, allowed or paid by the City unless this requirement is strictly complied with.

21. Assignment:

All of the terms, conditions and provisions of this Contract, and any amendments thereto, shall inure to the benefit of and be binding upon the parties hereto, and their respective successors and assigns. The Consultant shall not assign this Contract without the written consent of the City which will not be unreasonably withheld.

22. Notices:

All notices required to be given in writing by this Contract shall be deemed to be received (i) upon delivery if personally delivered, or (ii) when receipt is signed for if mailed by certified or registered mail, postage prepaid, or by express delivery service or courier, when addressed as follows (or sent to such other address as a Party may specify in a notice to the others):

CITY OF SPARKS - PURCHASING DIVISION
431 PRATER WAY
PO BOX 857
SPARKS, NV 89432-0857

Rodney Savini
Poggemeyer Design Group
1575 Delucchi Ln., Suit 111
Reno, NV 89502-6507



23. Entire Contract:

This Contract and all associated documents associated by reference constitute the entire agreement of the parties and shall supersede all prior offers, negotiations, agreements and contracts whether written or oral. Any modifications to the terms and conditions of this Contract must be in writing and signed by both parties.

24. Waiver:

No waiver of any term, provision or condition of this Contract, whether by conduct or otherwise, in any one or more instances, shall be deemed to be nor shall it be construed as a further or continuing waiver of any such term, provision or condition of this Contract. No waiver shall be effective unless it is in writing and signed by the party making it.

25. Annual Appropriation of Funds:

Multi-year contracts and leases are subject to annual appropriation of funds by the City Council. The City plans and makes appropriations to the City Budget with respect to a fiscal year that starts July 1st and ends June 30th of each year. Payments made under term contracts and leases are considered items of current expense. Purchase Orders are funded when issued; therefore, they are current expense items and are not subject to any subsequent appropriation of funds. Continuance of a multi-year contract beyond the limits of funds available shall be contingent upon appropriation of the requisite funds in the ensuing fiscal year and the termination of this contract by lack of appropriation shall be without penalty.

26. Severability:

If any part of this Contract is found to be void it will not affect the validity of the remaining terms of this Contract which will remain in full force and effect.

27. Headings:

Paragraph titles or captions contained in this Contract are inserted only as a matter of convenience and for reference only, and in no way define, limit, extend, or describe the scope of this Contract or the intent of any provision hereof.

28. Singular Includes the Plural; Gender; Title Reference:

Whenever the singular number is used in this Contract and when required by the context, the same shall include the plural, and the use of any gender, be it masculine, feminine or neuter, shall include all of the genders, and the word "person" or "entity" shall include corporation, firm, partnership, or any other combination or association.

The use of the title "Bidder", "Vendor", "Contractor" or "Consultant" within this contract or associated bid documents shall be deemed interchangeable and shall refer to the person or entity with whom the City of Sparks is contracting for the service or product referenced within this contract.



29. Execution:

The parties agree to execute such additional documents and to take such additional actions as are reasonably necessary or desirable to carry out the purposes hereof. They also agree, acknowledge and represent that all corporate authorizations have been obtained for the execution of this Contract and for the compliance with each and every term hereof. Each undersigned officer, representative or employee represents that he or she has the authority to execute this Contract on behalf of the party for whom he or she is signing.

IN WITNESS WHEREOF, the City of Sparks has caused this Contract to be executed by its officers thereunto duly authorized and the Consultant has subscribed same, all on the day and year first above written.

(Consultant)

CITY OF SPARKS, NEVADA
A Municipal Corporation

By: _____

By: _____
Ronald E. Smith, Mayor

(Title)

APPROVED AS TO FORM

ATTEST:

City Attorney

Teresa Gardner, City Clerk



Attachment A

Price and scope per written contract provided by Poggemeyer Design Group, Inc., dated October 19, 2018 (attached).



October 19, 2018

Mr. Kevin Porter, P.E.
City of Sparks
431 Prater Way
Sparks, Nevada 89431
kporter@cityofsparks.us

RE: El Rancho Sewer Improvements PWP#WA-2018-271

RN18XXX

Dear Mr. Porter,

Poggemeyer Design Group, Inc. (PDG) is pleased to provide City of Sparks (Sparks) this proposal for construction management and inspection services. Black Eagle Consulting has been included in this proposal per your request to provide their services. The team also maintains a current City of Sparks Business Licenses. This proposal has been developed to provide PDG's project understanding, our proposed scope of services and our proposed fee as requested.

Project Understanding

- The City of Sparks has designed and bid the El Rancho Sewer Improvements project. The recommendation for award has already been developed and submitted. The construction award is scheduled to occur on October 22, 2018.

Scope of Work

PDG, with the addition of Black Eagle Consulting, is poised to provide construction management during construction. The City of Sparks developed bid documents (stamped August 27, 2018) and Axion Engineering has completed the geotechnical analysis (dated March 19, 2018) and design (dated August 2018). We are in receipt of these documents and they form the basis of our proposal.

Task 1 - Construction

PDG, with the addition of Black Eagle Consulting, will represent the Owner during the construction of the El Rancho Sewer Improvements project. We will act as an extension of your staff and report directly to City of Sparks personnel.

- City of Sparks Project Team
 - City contacts and roles:
 - City of Sparks Construction Administration Contacts
 - It is understood that Kevin Porter will be the primary point of contact initially but will be out on extended leave during most of the construction period
 - Contractor notices, correspondence, and identified documents will be forwarded to Kevin Porter for review and to Amber Sosa for information during Kevin Porter's absence
 - Jon Ericson, P.E., City Engineer will be the overall point of contact during Kevin Porter's absence
 - Contractor notices, correspondence, and identified documents will be forwarded for Jon Ericson's review
 - Amber Sosa will receive, review, and accept/approve the traffic control plans
 - Robert Schricker will be the operations contact
 - A sewer crew supervisor will be the primary contact for submittals regarding contractor operations, specifically bypass activities and operation, and acceptance of submittals as required
 - Construction Services
 - Jon Ericson, P.E., City Engineer will be the overall point of contact during your absence
 - A/E services during construction will be provided by Axion Engineering
 - Submittal review will be provided for the following:
 - Contract
 - Material
 - Equipment
 - Testing
 - Other (as required)
- Construction Administration

- Kick-off meeting (currently scheduled for October 22, 2018)
- Pre-Construction meeting
- Construction administration
 - Construction management
 - Inspection
 - Inspection (half time), daily reporting, and photos
 - Inspection (Oddie Boulevard and El Rancho overtime intersection)
- Schedule of Value review
- Routing submittals from the Contractor to Axion and returning
 - Archiving submittals
- Receiving, reviewing, and archiving project correspondence
- Receiving, reviewing, and archiving project schedules (initial and updates)
- Pay application analysis and processing
- Special inspection and testing by Black Eagle Consulting
 - The on-call list has been provided from the City of Sparks
 - PDG proposes utilizing Black Eagle Consulting for special inspection and testing
- Surveying to be provided by the City of Sparks
 - City of Sparks will be providing surveying services for this project

Project Schedule

The Notice To Proceed has been discussed with the Contractor and it is anticipated that they desire and will request to begin the project on or around December 3, 2018. The project duration is 80 calendar days. The project requirements require the work to be completed Monday thru Friday, 7 a.m. – 7 p.m. As a result, 16 weeks will be anticipated and budgeted. Additionally, the installation completed in the Oddie Boulevard and El Ranch intersection will be performed between 8 p.m. – 6 a.m. Because of this specific condition 5 days will be anticipated and budgeted.

Fees

PDG will perform the services as outlined above as follows:

Total:\$117,456.55

Reimbursable expenses such as prints, copying, etc. will be billed additionally. The reproducible costs will be itemized as applicable in each invoice.

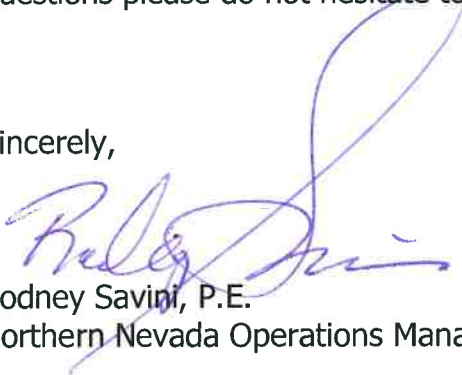
Terms and Conditions

Work outside the established SCOPE OF WORK can be performed on a time and materials basis in accordance with our current fee schedule. A standard fee schedule is attached and incorporated into this proposal. This proposal is valid for 30 working days from the date of this letter.

PDG will send monthly progress billings on this project. The amount of these billings will be based upon the time and materials for the work completed. The terms are 'Due upon Receipt' and accounts are past due after 45 days. Accounts over 45 days old will be subject to interest at the rate of 1 ½% per month and such collection action as may be necessary to collect the account. In addition, a "Stop Work Order" may be issued on past due accounts. In this case, no further work will be performed until the account is brought current.

Thank you for the opportunity to provide you with this proposal, and if you have any questions please do not hesitate to call me at (775) 857-3330.

Sincerely,



Rodney Savini, P.E.
Northern Nevada Operations Manager

Mr. Rod Savini, P.E.
Northern Nevada Operations Manager
Poggemeyer Design Group
1575 Delucchi Lane, Ste. 111
Reno, NV 89502
rsavini@poggemeyer.com

Exhibit A
October 19, 2018

RE: Proposal to Provide Material Testing Services
El Rancho Sewer Improvements Project
Sparks, Nevada

Dear Mr. Savini:

Black Eagle Consulting, Inc. (BEC) is pleased to present the following budget estimate to provide material testing services for the El Rancho Sewer Improvements project located in Sparks, Nevada. An estimated cost for this project is based on the following information:

- Project drawings titled *City of Sparks El Rancho Sewer Improvement Plans (PWP #WA-2018-271)*, prepared by Axion Engineering.
- Project specifications titled *El Rancho Sewer Improvements*.
- *Standard Specifications for Public Works Construction (SSPWC), 2012*.
- *Phone conversations with you on October 18, 2018*.

Based on the information noted above, we anticipate the following scope of work:

Testing Services

- Our inspector will make 80 site visits at 4 hours each for material testing of the subgrade, backfill, aggregate base, and plant mix materials.
- Our inspector will make 3 site visits at 12 hours (overtime) each for material testing of the subgrade, backfill, aggregate base, and plant mix materials during the marathon weekend work at the El Rancho/Oddie Boulevard intersection.

Laboratory Services

- We have budgeted 3 Atterberg limits, 5 Proctor curves, 4 sieves, 1 R-value, 1 fractured face, and 2 resistance to degradation (LAR) tests to characterize the subgrade, backfill, and aggregate base materials.
- We have budgeted for 2 sets of concrete cylinders to be tested for compressive strength.
- We have budgeted for 4 hot-mix asphalt samples to be tested for extraction by ignition, gradation, stability, and maximum theoretical specific gravity. Three sets of pavement cores will be taken and tested for thickness and in-place air voids. Coring of the asphalt is expected to take 4 hours to complete.

Additional Items

- A minimum of 24-hour notice will be required for scheduling of testing services.
- No allowance has been made for re-testing of any materials or workmanship not in conformance with project specifications.
- Prevailing wage rates **have been included** in this proposal.
- We have made an allowance for project management and for all field equipment required, including vehicles.



Northern Nevada Operations Manager

Poggemeyer Design Group

October 19, 2018

We estimate a cost of \$47,928.00 to perform material testing services for this project. This price is based on our current 2018 Standard Rates for Services and is valid for a period of 90 days from the date of this proposal. If work is authorized after 90 days has expired, our budget may need to be modified to reflect any adjustments to our Standard Rates for Services in effect at that time. Our actual costs will be directly associated with the contractor's production and efficient coordination of the work.

Unless Black Eagle Consulting, Inc. executes a contract to the contrary, all services will be performed on a time-and-materials basis in accordance with our Standard Rates for Services in effect at the time of service. Services rendered by Black Eagle Consulting, Inc. under this agreement will be conducted in a manner consistent with that level of care and skill ordinarily expected by members of the profession currently practicing under similar conditions. No other warranty, expressed or implied, is made.

We greatly appreciate having the opportunity to submit this proposal and look forward to working with you on this project. If you have any questions, or require any additional information, please feel free to call us.

Sincerely,

Black Eagle Consulting, Inc.


Shane Cocking, P.E.
Project Manager

SRC:src/mrc

Enclosure: 2018 Standard Rates for Services





BLACK EAGLE CONSULTING, INC.

2018 STANDARD RATES FOR SERVICES

The following lists a schedule of fees associated with engineering, materials testing, and construction testing and inspection support services. For projects lasting less than 4 weeks, invoices will be submitted upon project completion, while monthly invoices will be submitted for projects that last longer than 4 weeks. Overtime is defined as any hour of service provided in excess of 40 hours in a single week or any hour of service provided on a Saturday or Sunday. Any overtime work will be invoiced at time and one-quarter. Double time is defined as any hour of service provided on a holiday. Any double time work will be invoiced at double time.

<u>SUPPORT SERVICE</u>	<u>RATE/HOUR</u>
President	\$175.00
Vice President	\$175.00
Senior Consultant	\$175.00
ENGINEERING:	
Division Manager	\$155.00
Project Manager	\$140.00
Project Engineer/Geologist	\$115.00
Engineering Technician	\$ 95.00
Drafting	\$ 75.00
MATERIALS TESTING:	
Division Manager	\$155.00
Senior Materials Technician	\$110.00
Materials Technician	\$ 90.00
Materials Technician Trainee	\$ 75.00
CONSTRUCTION TESTING AND INSPECTION:	
Division Manager	\$155.00
Project Manager	\$120.00
Field Manager	\$110.00
Inspector	\$102.00
TRAVEL AND EQUIPMENT:	
Vehicle	\$ 10.00
Mileage	\$ 2.00/mile
Per Diem	P.O.R.*
Nuclear Densometer	\$ 10.00
Coring Machine	\$ 25.00
Pachometer	\$ 10.00
Torque Wrench	\$ 10.00
Skidmore-Wilhelm Bolt Tension	\$ 10.00
Ultrasonic Equipment	\$ 15.00
Paint Thickness Gauge	\$ 10.00
Schmidt Hammer	\$ 10.00
Vane Shear	\$ 10.00
HERZ	\$ 60.00
ReMi Geophysical	\$600.00/day
Crosshole Sonic Logging	\$500.00/day
CLERICAL:	
Clerical/Word Processor	\$ 60.00
Computer	\$ 10.00
Supplies	Cost + 10%
Copying	\$ 0.25/page
Color Copies: 8-1/2" x 11"	\$ 1.00/page
Color Copies: 11" x 17"	\$ 2.00/page
OUTSIDE SERVICES:	Cost + 10%



BLACK EAGLE CONSULTING, INC.

2018 STANDARD RATES FOR SERVICES

2018 LABORATORY SERVICES SCHEDULE OF CHARGES

<u>TESTS</u>	<u>UNIT PRICE</u>
SOILS TESTING:	
Moisture Content (ASTM D 2216)	\$ 25.00/test
Moisture Content and Dry Density (ASTM D 2937)	\$ 35.00/test
Atterberg Limit (ASTM D 4318)	\$120.00/test
Minus 200 Wash (ASTM D 1140)	\$100.00/test
Standard Sieve Analysis	\$ 90.00/test
Combined Sieve Analysis	\$130.00/test
Hydrometer Analysis minus No. 10 (ASTM D 422)	\$225.00/test
Soil Specific Gravity (ASTM D 854)	\$100.00/test
R-Value, Untreated Field Sample (ASTM D 2844)	\$300.00/test
Consolidation, 4 points & 1 Rebound Point (ASTM D 2435)	\$350.00/test
Direct Shear, UU, CU, CD (ASTM D 3080)	\$350.00/test
Unconfined Compression (ASTM D 2166)	\$ 90.00/test
Durability Index	\$120.00/test
Permeability (4-inch Rigid Wall Mold, Falling Head or Constant Volume, Remolded Sample)	\$400.00/test
California Bearing Ratio	\$700.00/test
Resistivity (Miller Soil Box)	\$100.00/test
Standard Proctor Compaction (ASTM D 698)	
a.) Method A or B (4-inch mold)	\$170.00/test
b.) Method C (6-inch mold)	\$195.00/test
Modified Proctor Compaction (ASTM D 1557)	
a.) Method A or B (4-inch mold)	\$200.00/test
b.) Method C (6-inch mold)	\$225.00/test
Compaction Check Point (4-inch or 6-inch mold)	\$100.00/test
Rock Correction (ASTM D 4718)	\$100.00/test
Harvard Miniature (Nev T-101)	\$200.00/test
AGGREGATE TESTING:	
Standard Sieve Analysis	\$100.00/test
Combined Sieve Analysis	\$125.00/test
Atterberg Limit (ASTM D 4318)	\$120.00/test
Moisture Content (ASTM D 2216)	\$ 25.00/test
Specific Gravity Fine Aggregate with Absorption (ASTM C 128)	\$100.00/test
Specific Gravity Coarse Aggregate with Absorption (ASTM C 127)	\$ 90.00/test
Clay Lumps and Friable Particles (ASTM C 142)	\$ 80.00/test
Flat and Elongated Particles (CRD 119, 120)	\$ 80.00/test
Fractured Faces (Nev T-230)	\$ 80.00/test
Sand Equivalent (ASTM D 2419)	\$110.00/test
Cleanness Test of Aggregate	\$120.00/test
Organic Impurities (ASTM C 40)	\$ 50.00/test
Dry Unit Weight of Aggregate (ASTM C 29)	\$ 80.00/test
Sodium Soundness of Aggregate (ASTM C 88)	\$130.00/fraction
Los Angeles Rattler, 1.5 inch minus aggregate size (ASTM C 131)	\$180.00/test
Los Angeles Rattler, greater than 1.5 inch aggregate size (ASTM C 535)	\$300.00/test
PORTLAND CEMENT TESTING:	
Compression of Concrete Cylinder (ASTM C 39)	\$ 25.00/ea.
Compression of Grout Cylinder (UBC 24-28)	\$ 25.00/ea.
Compression of Mortar Cylinder (UBC 24-22)	\$ 25.00/ea.
Hold Cylinder (cured but not tested)	\$ 20.00/ea.
Compression of Cored Concrete (ASTM C 42)	\$ 40.00/ea.
Compression of Shotcrete	\$100.00/ea.
Flexural Strength of Concrete Beams (ASTM C 78, C 293)	\$ 90.00/ea
Splitting Tensile Strength of Concrete Cylinder (ASTM C 496)	\$ 50.00/ea



BLACK EAGLE CONSULTING, INC.

2018 STANDARD RATES FOR SERVICES

MASONRY TESTING:

Compression of Masonry Unit (ASTM C 140) (Set of 3)	\$180.00/set
Compression of Masonry Prism (ASTM C 1314)	\$140.00/ea.
Shrinkage (Set of 3)	\$450.00/set
Moisture (Set of 3)	\$120.00/set

ASPHALT CONCRETE TESTING:

Bitumen Content by Ignition	\$130.00/test
Asphalt Gradation	\$100.00/test
Marshall Stability and Flow, Compaction and Unit Weight (ASTM D 1559)	\$250.00/test
Maximum Theoretical Specific Gravity (ASTM D 2041)	\$100.00/test
Unit Weight of Asphalt Cores (ASTM D 2726)	\$ 35.00/ea.
Hveem Compaction and Stability	\$150.00/ea.
Hot Mix Asphalt Mix Design	P.O.R.*
CTB Mix Design	P.O.R.*

MISCELLANEOUS:

Mobile Asphalt/Soils Testing Laboratory	\$150.00/working day**
Special Handling	\$ 75.00/hr.
Rush Charge	50% Additional Charge

ADDITIONAL INFORMATION

Laboratory test unit prices are based upon the average running time required for each test. Special research, sample or equipment preparation or laboratory consulting will be based upon hourly personnel charges. Fixed unit prices do not include extra preparation time for large bulk samples, saturated samples or extremely clayey samples. This time will be invoiced on a per-hour basis. Special report preparation and data presentation beyond industry standards will also be invoiced on a per-hour basis. Cost estimates for hourly charges will be provided on a project-specific basis upon request.

Any specialized testing not covered by this fee schedule will be developed or subcontracted out under Black Eagle Consulting, Inc. supervision. Costs for these tests will be time-and-materials. When applicable, subcontractors' fees will be invoiced at cost plus ten (10) percent.

All samples will be discarded thirty (30) days after submission of our report, unless otherwise directed by the client. Upon request, Black Eagle Consulting, Inc. will deliver samples to the client, shipping collect on delivery, or will store them for an agreed charge.

* Price on request

**Excludes mobilization/demobilization which is performed on a time-and-materials basis.