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**CONSTRUCTION MANAGEMENT-EAST PRATER WAY STORM DRAIN  
CITY OF SPARKS, NEVADA**

THIS CONTRACT made and entered into on this 26th day of October, 2020, 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 **Atkins**, 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 September 23 2020, 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 **Construction Management-East Prater Way Storm Drain**. 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.



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**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 **\$268,334.00** 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 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



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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 indemnity 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:**

CONSULTANT'S ATTENTION IS DIRECTED TO THE INSURANCE REQUIREMENTS BELOW. IT IS HIGHLY RECOMMENDED THAT CONSULTANTS CONFER WITH THEIR RESPECTIVE INSURANCE CARRIERS OR BROKERS TO DETERMINE IN ADVANCE OF PROPOSAL SUBMISSION THE AVAILABILITY OF INSURANCE CERTIFICATES AND ENDORSEMENTS AS PRESCRIBED AND PROVIDED HEREIN.

**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. Continuing commercial umbrella coverage, if any, shall include liability coverage for damage to the insured's completed work equivalent to that provided under ISO form CG 00 01.

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, 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



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**\$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.

***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.

***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***

Policy forms or endorsements are required confirming coverage for all required additional insureds. The forms or endorsements for CGL shall be at least as broad as the unmodified ISO additional insured endorsement CGO 20 10 07/04 and CG 20 37 07/04 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



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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).

***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.

***Waiver of Subrogation.***

Contractor waives all rights against City, its officers, agents, employees, and volunteers 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. Contractor's insurer shall endorse policy to waive subrogation against City with respect to any loss paid under the policy.

**Workers' Compensation and Employer's Liability**

Contractor shall carry and maintain workers' compensation and employer's liability insurance meeting the statutory requirements of the State of Nevada, including but not limited to NRS 616B.627 and NRS 617.210 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




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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.

Upon completion of the project, Contractor shall, if requested by City, provide a Final Certificate for itself and each Subcontractor showing that Contractor and each Subcontractor had maintained the required Workers Compensation and Employer's Liability by paying all premiums due throughout the entire course of the project.

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:	<b>\$1,000,000</b> Bodily Injury by Accident – Each Accident
	<b>\$1,000,000</b> Bodily Injury by Disease – Each Employee
	<b>\$1,000,000</b> 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 each claim 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. If coverage is required on a claims-made or claims-made and reported basis, any applicable retroactive or pending & prior litigation dates must precede the effective date of this contract. Continuous coverage shall be maintained, or an extended reporting period shall be obtained for a period of at least three (3) years following completion of the project.

#### **ALL COVERAGES**



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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.

#### **DEDUCTIBLES AND RETENTIONS**

Any deductibles or self-insured retentions that exceed \$100,000.00 per occurrence or claim must be declared to and approved by the City's Contracts and Risk Manager and prior to signing this Contract. City is entitled to request and receive additional documentation, financial or otherwise, prior to giving its approval of the deductibles and self-insured retentions. Any changes to the deductibles or self-insured retentions made during the term of this Contract or during the term of any policy must be approved by City's Contracts and Purchasing Manager prior to the change taking effect. Contractor is responsible for any losses within deductibles or self-insured retentions.

#### **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 meet any applicable state and federal laws and regulations for non-admitted insurance placement.

#### **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





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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. If endorsements are not available, Contractor shall be responsible to provide prior written notice to City as soon as practicable upon receipt of any notice of cancellation, non-renewal, reduction in required limits or other material change in the insurance required under this Agreement.

**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 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, and such coverage and limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to City in this contract.
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.
4. If Contractor's liability policies do not contain the standard ISO separation of insureds condition, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

#### **12. Indemnity:**

To the fullest extent permitted by law, upon award, Contractor shall hold harmless and indemnify,



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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”) to the extent that such Claims are caused by the negligence, errors, omissions, recklessness, or intentional misconduct 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.

In addition to Contractor’s duty to hold harmless and indemnify the Indemnified Parties above, Contractor shall also defend the Indemnified Parties with respect to any Claims caused by the negligence, errors, omissions, recklessness or intentional misconduct of Contractor, its employees, agents, representatives, or Subcontractors which are not based upon or arising out of the professional services of Contractor. However, Contractor shall not be required to defend the Indemnified Parties with respect to Claims caused by the negligence, errors omissions, recklessness or intentional misconduct of Contractor, its employees, agents, representatives, or Subcontractors which are based upon or arising out of the professional services of Contractor. In such an event, if Contractor is adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney’s fees and costs to be paid by Contractor to the Indemnified Parties, as reimbursement for the attorney’s fees and costs incurred by the Indemnified Parties in defending against such Claims, in an amount which is proportionate to the liability of Contractor.

**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



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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.



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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 \$100,000 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

Brian Janes  
Atkins  
10509 Professional Circle #102  
Reno, NV 89521

**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 1<sup>st</sup> and ends June 30<sup>th</sup> 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: \_\_\_\_\_  
Ed Lawson, Mayor

\_\_\_\_\_  
(Title)

APPROVED AS TO FORM

ATTEST:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
City Clerk



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**Attachment A**

Price and scope per written proposal provided by Atkins, dated September 23, 2020 (attached).



**Atkins**  
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Our reference: 100057174

Kevin Porter, P.E.  
City of Sparks  
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Sparks, NV 89431

atkinglobal.com  
[snclavalin.com](http://snclavalin.com)

23 September 2020

Dear Kevin,

Atkins is pleased to submit for your review this scope and fee for construction support services on the East Prater Way Storm Drain Project. This project includes the installation of approximately 3,000 feet of storm drain force main, a lift station, high capacity catch basins, approximately 600 feet of gravity storm drain, surface improvements, traffic control and all miscellaneous and incidental work necessary to complete the project as specified in the plans and specifications.

The fee estimate for the construction management support, inspection, materials testing, and development of record drawings is based on a time and materials estimate not-to-exceed \$268,334. For construction staking and materials testing, prevailing wages will be paid to soils testers, and soils and materials testers per the City's requirement. A contingency task (Task 6 Special Services) of \$20,000 has been included specifically for additional out-of-scope tasks and time extensions as may be required. This task will only be executed upon your direction.

We anticipate a notice to proceed (NTP) for the construction services and a project completion date as identified in the Special Provisions. The scope of work is detailed on Attachment A, and a detailed cost proposal is provided in Attachment B, and an Atkins' fee schedule is provided in Attachment C.

Please call me if you have any questions at 789-9831.

Kind regards

Brian Janes, P.E.



## **Attachment A**

### **SCOPE OF SERVICES EAST PRATER WAY STORM DRAIN PROJECT CONSTRUCTION SUPPORT SERVICES**

#### **I. PROJECT SPECIFIC INFORMATION AND GENERAL SCOPE**

The Consultant will provide Construction Support Services during construction of the East Prater Way Storm Drain Project (Project) as defined below. These services are intended to assist the City of Sparks (City) monitor the performance of the construction Contractor, verify that the Contractor's work is in compliance with the contract documents, and assist the City in responding to events that occur during the construction. The Consultant will act as an agent of the City and will be actively involved in the construction process to make decisions, provide approvals, and perform other actions necessary for the completion of the construction. The Consultant will be responsible for compliance with these services and is also contingent upon the City executing a contract for construction with the Contractor.

This project includes the construction and installation of approximately 3,000 feet of storm drain force main, a lift station, high capacity catch basins, approximately 600 feet of gravity storm drain, surface improvements, traffic control and all miscellaneous and incidental work necessary to complete the project as specified in the plans and specifications. The construction shall be completed utilizing conventional open trench pipe installation methods. Surface restoration includes, but is not limited to, restoration of permanent pavement patching, grind and overlay, and replacement of curb, gutter, sidewalk, driveways, driveway aprons, pedestrian ramps, and landscape affected by construction.

#### **II. PROJECT SCOPE**

This scope of work assumes that the City will provide lead construction management services to include construction administration, invoicing, certified payroll, prevailing wage tracking and reporting, pay application review, and quantity tracking. Additionally, the City will be providing all inspection for the gravity flow components of the Project. The City is also expected to provide a SCADA Controls Provider to respond to all instrumentation and controls related requests for information (RFI), submittal reviews, inspection needs, and record drawings.

Consultant will provide construction inspection of the force main as well as the pump station. Consultant will provide a Sub-consultant to conduct materials testing for the entire project and a Sub-consultant to respond to pump station electrical RFIs.

#### **III. WORK DURATION AND ASSUMPTIONS**

- a. Notice to proceed (NTP) for the Consultant Construction Support Services Agreement is anticipated to be between October 1, 2020 and February 28, 2021. The Consultant work duration is tied to the anticipated construction duration number of working days.
- b. Construction duration of one hundred (100) working days (20 weeks) limited to ten (10) hour work days and work weeks that will not exceed the 50 hours.
- c. The Consultant may request the use of additional services or request for the transfer of funds from one task to another. The request shall be provided to the City prior to the anticipated use of the additional services or the transfer from one task to another. The authorization of such use shall only be upon written approval by the City.

#### **IV. VEHICLES AND EQUIPMENT**

The Consultant shall furnish each worker with a suitable vehicle registered in the State of Nevada and proper tools and safety equipment to complete the work required.

## **V. PROJECT STANDARDS**

All materials furnished and work performed shall be done in accordance with the 2012 edition of "Standard Specifications for Public Works Construction" (Orange Book) and any revisions thereto if not covered by the Supplemental General Provisions and the Contract Documents.

### **TASK 1. CONSTRUCTION MANAGEMENT**

The Consultant will support the City with construction management for the duration of the work. The Consultant will be responsible for oversight of the Consultant's construction services team including, the Sub-consultants and shall provide the following construction management support services:

- Project Engineer will provide prompt response to questions or RFIs.
- Project Engineer will review manufacturer's shop drawings for the force main and pump station.
- The Consultant will attend the preconstruction meeting and twenty (20) weekly meetings for the duration of the project.
- The Consultant shall verify and approve the Contractor's monthly pay request associated with the force main, pump station, and electrical components.
- The Consultant shall assist in change order review and approval.
- Upon agreement of substantial completion by the Consultant, City and Contractor, the Consultant shall assist the City in conducting a formal inspection (walk-through) with representatives of the Contractor to determine remaining work for final acceptance per the Contract Documents. The Consultant shall ensure that all force main and pump station equipment is demonstrated by the Contractor (to the City) to be operational in accordance with the Contract Documents.

#### **Task Assumptions:**

- The City will run the pre-construction meeting and complete the meeting minutes
- The City will chair the weekly progress meetings and complete meeting minutes
- The City will manage, track, and store project documents.
- The City will track sub-consultants, DBEs, and compliance with prevailing wage.
- The City will track compliance with permits, stockpiling material, etc.
- The City will conduct any public outreach, partnering, utility coordination, or notice distribution required.

### **TASK 2. CONSTRUCTION INSPECTION**

The Consultant shall provide one (1) full-time inspector (as required) during all construction activities associated with the force main and pump station. Full-time inspection assumes fifty (50) ten (10) hour work days. The inspector will provide the following (associated with the construction of the force main and pump station):

- Attend the pre-construction conference.
- Monitor the work performed by the Contractor to assure work is in accordance with the plans and specifications.
- Prepare daily inspection reports.
- Provide photo documentation of construction activities.

- Provide weekly quantity reports to assist in Contractor's monthly pay request approval.
- Maintain and ensure project punch-list is completed.
- Maintain and provide Engineer with blueline As-built drawings.

Miscellaneous expenses such as vehicles, phones, mileage, supplies, photocopies, etc. related to the construction inspection task are not included in the standard hourly rate and are separately listed in the attached cost proposal.

**Task Assumptions:**

- The City will manage the overall construction schedule and email to the team weekly
- The City will obtain all required project initiation documents from the Contractor including the Quality Control Plan (QCP).
- The City will monitor the Contractor's compliance with the QCP for gravity portions of the project while the Consultant will monitor compliance with the QCP for the force main and lift station.

**TASK 3. MATERIALS TESTING (SUB-CONSULTANT)**

Sub-consultant will provide materials testing to ensure compliance with the Project Specifications and the 2012 edition of the Orange Book testing requirements.

Daily field reports describing construction and materials testing activities with transmittals to the project administrator. Individual test results for compaction testing and concrete testing will be provided verbally at the completion of each test. Daily written summaries of the inspection dialogues and materials testing results will be provided weekly.

Materials testing and inspection services included in this scope are summarized as follows:

ACTIVITY	QTY/DAYS	HRS/DAY	RATE	TOTAL	COMMENTS
<b>PROJECT MANAGER</b>					
COORDINATION/REPORTS	16	1.5	\$ 170.00	\$ 4,080.00	16 WEEKS
SUBMITTALS REVIEW	2	1	\$ 170.00	\$ 340.00	
ONSITE MEETINGS, PERIODIC	5	1.5	\$ 170.00	\$ 1,275.00	INCLUDES PRECONSTRUCTION MTG
PROJECT MANAGER ASSISTANT	16	0.5	\$ 110.00	\$ 880.00	PREVAILING WAGE ADMINISTRATION
VEHICLE	7.5		\$ 10.00	\$ 75.00	
<b>SITE GRADING</b>					
INSPECTOR/TECHNICIAN	8	3	\$ 110.00	\$ 2,640.00	SUBGRADE AND AGGREGATE BASE
VEHICLE + EQUIPMENT	24		\$ 10.00	\$ 240.00	
<b>SITE UTILITIES* - COMPACTION ONLY</b>					
INSPECTOR/TECHNICIAN	30	4	\$ 110.00	\$ 13,200.00	2994 LF 24" FM
INSPECTOR/TECHNICIAN	1	4	\$ 110.00	\$ 440.00	197 LF 24" C900 PVC
INSPECTOR/TECHNICIAN	3	4	\$ 110.00	\$ 1,320.00	318 LF 18", 24", 30" CLASS III RCP
INSPECTOR/TECHNICIAN	2	4	\$ 110.00	\$ 880.00	239 LF 42" CLASS III RCP
INSPECTOR/TECHNICIAN	1	4	\$ 110.00	\$ 440.00	84 LF 53" X 34"
INSPECTOR/TECHNICIAN	3	4	\$ 110.00	\$ 1,320.00	250 LF SD REMOVAL
INSPECTOR/TECHNICIAN	3	3	\$ 110.00	\$ 990.00	TMWA REPLACEMENT SECTIONS
INSPECTOR/TECHNICIAN	6	3	\$ 110.00	\$ 1,980.00	MANHOLES AND INLETS BACKFILL
VEHICLE + EQUIPMENT	160		\$ 10.00	\$ 1,600.00	

\* INSTALLATION RATE IS A DAILY AVERAGE OF 100 LF/DAY

**CONCRETE\*\***

SAMPLE 1/DAY OR 1/50 CY

INSPECTOR/TECHNICIAN	6	4	\$ 110.00	\$ 2,640.00	THREE - TYPE 4 MANHOLES
INSPECTOR/TECHNICIAN	1	4	\$ 110.00	\$ 440.00	625 SF - SIDEWALK
INSPECTOR/TECHNICIAN	5	4	\$ 110.00	\$ 2,200.00	508 LF - C&G, PED RAMP, CONC PAD
INSPECTOR/TECHNICIAN	2	2	\$ 110.00	\$ 440.00	REBAR INSPECT
VEHICLE + EQUIPMENT	52		\$ 10.00	\$ 520.00	

\*\*INCLUDES CYLINDER PICKUP FOLLOWING DAY

**ASPHALT PAVING**

1100 TONS AC PATCH, 1150 TONS 2" OVERLAY

INSPECTOR/TECHNICIAN	3	8	\$ 110.00	\$ 2,640.00	INCLUDES CORING
INSPECTOR/TECHNICIAN - OT	1	2	\$ 147.00	\$ 294.00	
VEHICLE + EQUIPMENT	26		\$ 10.00	\$ 260.00	

**LABORATORY TESTING**

PROCTORS	3		\$ 275.00	\$ 825.00	NATIVE CLASS E, AGG BASE
SIEVE ANALYSIS & PLASTICITY INDEX	2		\$ 220.00	\$ 440.00	NATIVE CLASS E
AC FULL MARSHALL SERIES	4		\$ 820.00	\$ 3,280.00	INCLUDES A SET OF THREE CORES
CONCRETE CYLINDERS	11		\$ 120.00	\$ 1,320.00	SETS OF FOUR, 1/50 CY

**ESTIMATED FEES: \$ 46,999.00****10% CONTINGENCY FOR ASSUMED SCHEDULE CHANGES: \$ 4,700.00****NOTES:**

1. BASED ON CME PAYING WASHOE COUNTY PREVAILING WAGE RATES AT \$40.38
2. BASED ON OUR ASSUMED CONSTRUCTION SCHEDULE CAN BE REFINED UPON RECEIPT OF ACTIVITY-BASED SCHEDULE

**TASK 4. ELECTRICAL ENGINEERING SUPPORT (SUB-CONSULTANT)**

Sub-consultant will provide electrical engineering support to include:

- Prompt response to electrical questions or RFIs.
- Review of manufacturer's shop drawing and data sheet submittals for electrical equipment.
- Incorporation of relevant electrical items noted during plan check or internal review and coordination procedures.
- Record drawings for the electrical design sheets depicting actual installation conditions based on contractor's markup drawings.
- Regular visits to the project site for observation and assistance throughout construction.

**TASK 5. RECORD DRAWINGS**

Consultant will provide record drawings for the completed project. Electronic drawings, in PDF format (22" x 34"), on diskette will be provided to the City. Consultant will review the Contractor's and City's construction redlines and incorporate into the record drawings.

Instrumentation and control record drawings will be provided by the City's SCADA Controls Provider and are not a part of this scope.

**TASK 6. SPECIAL SERVICES**

The project Special Service is specifically for additional out-of-scope tasks and time extensions as may be required. This work shall be added at the sole discretion of the City for fees negotiated on a case-by-case basis. The authorization of work under this task shall only be upon written approval by the City.



Member of the SNC-Lavalin Group

## Attachment B - Cost Proposal

Prater Storm Drain ESDC  
City of Sparks

Submittal Date: Sep-23-2020

Task ID	Description	Price
1	Construction Management	39,080
2	Construction Inspection	130,570
3	Materials Testing	54,284
4	Electrical Engineering Support	10,500
5	Record Drawings	13,900
6	Special Services	20,000
<b>Total Extended Price</b>		<b>268,334</b>

**ATTACHMENT C**

**E. PRATER STORM DRAIN**

**ATKINS FEE SCHEDULE**

**PERSONNEL**

Sr. Project Director	245.00/hr.
Project Director	230.00/hr.
Sr. Construction Manager	205.00/hr.
Construction Manager	195.00/hr.
Sr. Engineer II	160.00/hr.
Sr. Engineer I	135.00/hr.
Engineer II	105.00/hr.
Engineer I	95.00/hr.
Project Assistant	70.00/hr.

**EQUIPMENT**

Vehicle Charges	\$48/day
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**NOTES:**

- (1) Hourly rates for positions not listed will be negotiated on an as needed basis.
- (2) Hourly rates are applicable for 2020. Rates may be escalated 3% each year thereafter.
- (3) Reimbursable expenses will be billed at cost.