

**LANDER COUNTY COMMISSIONERS MEETING  
TOWN BOARD OF BATTLE MOUNTAIN & AUSTIN  
BOARD OF COUNTY HIGHWAY COMMISSIONERS**

October 11, 2018

LANDER COUNTY COURTHOUSE  
COMMISSIONERS' CHAMBER  
50 STATE ROUTE 305  
BATTLE MOUNTAIN, NEVADA

Also Via Teleconference At

AUSTIN COURTHOUSE  
COMMISSION OFFICE  
122 MAIN STREET  
AUSTIN, NEVADA

9:00 A.M

Call to Order

Pledge of Allegiance

A Moment of Silence

**Lander County Commissioners may break for lunch from 12:00pm to 1:15pm**

Any agenda item may be taken out of order, may be combined for consideration by the public body, and items may be pulled or removed from the agenda at any time.

Commissioners Reports on meetings, conferences and seminars attended

Staff Reports on meetings, conferences and seminars attended

Public Comment - For non-agendized items only. *Persons are invited to submit comments in writing and/or attend and make comments on any non- agenda item at the Board meeting if any, and discussion of those comments at the discretion of the Board. All public comment may be limited to three (3) minutes per person, again at the discretion of the Board. Reasonable restrictions may be placed on public comments based upon time, place and manner, but public comment based upon viewpoint may not be restricted.*

**\*CONSENT AGENDA\***

All matters listed under the consent agenda are considered routine, and may be acted upon by the Board of County Commissioners with one action, without extensive discussion. Any member of the Board or any citizen may request that an item be taken from the consent agenda, discussed and acted upon separately during this meeting. Consent agenda materials are available at the Lander County Clerk's office for viewing and copies are available for a nominal charge.

\*(1) Approval of October 11, 2018 Agenda Notice

\*(2) Approval of August 30, 2018 Special Meeting Minutes

\*(3) Approval of September 27, 2018 Meeting Minutes

\*(4) Approval of the Payment of Bills

\*(5) Approval of Payroll Change Requests

**\*BUILDING\***

- \*(1) Discussion and possible action regarding an update on the Austin Youth Center Roof, and all other matters properly related thereto.

*Public Comment*

- \*(2) Discussion and possible action regarding off street parking regulations (LCC 17.08.020) and the future pavement of alleyways in Battle Mountain, Nevada, and all other matters properly related thereto.

*Public Comment*

**\*COMMISSIONERS\***

- \*(3) Discussion and possible action regarding retraction of the Lander County Burn Ban, and all other matters properly related thereto.

*Public Comment*

- \*(4) Discussion only for a Progress report given by Lisa Taylor regarding the UNCE-Lander County Cooperative Extension, and all other matters properly related thereto.

*Public Comment*

- \*(5) Discussion and possible action regarding a contract between United Construction and Lander County for the remodel of the Lander County Sheriff's Office to approve/disapprove/modify, and all other matters properly related thereto.

*Public Comment*

- \*(6) Discussion and possible action regarding Question 3 on the upcoming 2018 ballot, and all other matters properly related thereto.

*Public Comment*

**\*BOARD APPOINTMENTS\***

- \*(7) Discussion and possible action to approve/disapprove an individual to fill one of two

vacancies on the Austin Airport Advisory Board, a Category III board that serves a two year term per NRS 244.1945, with term expiring June 30, 2020 and to consider the following:

a) Tom Andersen;

And all other matters properly related thereto.

*Public Comment*

**\*COMMISSIONERS\***

- \*(8) Discussion and possible action to award a medical marijuana cultivation facility license and a medical marijuana production facility license to, Rural Remedies, a pre-qualified applicant located in Northern Lander County, and all other matters properly related thereto.

*Public Comment*

- \*(9) Discussion and possible action to approve the appointment of Elizabeth Barela as Human Resource Assistant at a salary of \$35,000.00 a year plus benefits, which would be in addition to her present position as Office Manager for the District Attorney, and all other matters properly related thereto.

*Public Comment*

- \*(10) Discussion and possible action to approve/disapprove the Lander County Credit Card/Charge Account Agreement and the Policy and Procedures for County Credit Card/Charge Account Use and Accountability for Lander County Department Heads and Elected Officials, and all other matters properly related thereto.

*Public Comment*

- \*(11) Discussion and possible action to set a Holiday schedule for the November and December, 2018 Commission Meetings, and all other matters properly related thereto.

*Public Comment*

**\*CORRESPONDENCE**

- \*(12) Correspondence/reports/potential upcoming agenda items.

*Public Comment*

Public Comment - For non-agendized items only. *Persons are invited to submit comments in writing and/or attend and make comments on any non- agenda item at the Board meeting if any, and discussion of those comments at the discretion of the Board. All public comment may be limited to three (3) minutes per person, again at the discretion of the Board. Reasonable restrictions may be placed on public comments based upon time, place and manner, but public comment based upon viewpoint may not be restricted.*

### ADJOURN

\*Denotes "for possible action". Each such item may be discussed and action taken thereon with information provided at the meeting. Action may be taken according to the "Nevada Open Meeting Law Manual" via a telephone conference call in which a quorum of the Board members is simultaneously linked to one another telephonically.

### NOTE: TIMES ARE APPROXIMATE

This is the tentative schedule for the meeting. The Board reserves the right to take items out of order to accomplish business in the most efficient manner. The Board may combine two or more agenda items for consideration. The Board may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.

**Notice to persons with disabilities:** Members of the public who are disabled and require special assistance or accommodations at the meeting are requested to notify the County Manager in writing at the Courthouse, 50 State Route 305, Battle Mountain, Nevada 89820, or call (775) 635-2885 at least one day in advance of the meeting.

NOTICE: Any member of the public that would like to request any supporting material from the meeting, please contact the clerk's office, 50 State Route 305, Battle Mountain, Nevada 89820 (775) 635-5738.

### AFFIDAVIT OF POSTING

State of Nevada     )  
                                      ) ss  
County of Lander    )

Keith Westengard, Lander County Manager of said Lander County, Nevada, being duly sworn, says, that on the 5<sup>th</sup> day of October, 2018, he posted a notice, of which the attached is a copy, at the following places: 1) Battle Mountain Civic Center, 2) Battle Mountain Post Office, 3) Lander County Courthouse, 4) Swackhamer's Plaza Bulletin Board, 5) Kingston Community Hall Bulletin Board, and 6) Austin Courthouse in said Lander County, where proceedings are pending.



Keith Westengard, Lander County Manager

Subscribed and sworn to before me this 5<sup>th</sup> day October, 2018.

Witness



Name of Agenda: Lander County Board of Commissioners Meeting

Date of Meeting: October 11, 2018





*Cindy Benson*  
*Lander County Fiscal Officer*

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**LANDER COUNTY COMMISSION MEETING**

**October 11, 2018**

**APPROVE**

**Check #200505**

  
Cindy Benson – Fiscal Officer

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COUNTY OF LANDER  
BATTLE MOUNTAIN, NEVADA

RON UNGER

09/28/18

200505

09/27/18

PER DIEM

10/10/18 LAW ENFRCMNT SMT

23.00

23.00

PLEASE DETACH AND FILE

***Cindy Benson***  
***Lander County Fiscal Officer***

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***LANDER COUNTY COMMISSION MEETING***

**October 11, 2018**

**APPROVE**

**Check #200499**

  
Cindy Benson – Fiscal Officer

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COUNTY OF LANDER  
BATTLE MOUNTAIN, NEVADA

SECRETARY OF STATE

09/28/18

09/27/18

NOTARY LICENSURE

APPLICATION FEE

200499

35.00

35.00

PLEASE DETACH AND FILE

*Cindy Benson*  
*Lander County Fiscal Officer*

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**LANDER COUNTY COMMISSION MEETING**

**October 11, 2018**

**APPROVE**

**Check #200497**

  
Cindy Benson – Fiscal Officer

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COUNTY OF LANDER  
BATTLE MOUNTAIN, NEVADA

PRISTINE PAINTING

09/28/18

200497

09/27/18

234 FA-7

9/17/18 PAINTING DOORS

3,030.00

3,030.00

PLEASE DETACH AND FILE

*Cindy Benson*  
*Lander County Fiscal Officer*

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**LANDER COUNTY COMMISSION MEETING**

**October 11, 2018**

**APPROVE**

**Check #200486**

  
Cindy Benson – Fiscal Officer

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COUNTY OF LANDER  
BATTLE MOUNTAIN, NEVADA

CHIP COLPITTS

09/28/18

200486

09/27/18  
09/27/18

1808280033  
1809170008

8/28/18 AUSTIN EMS RUN  
9/18/18 AUSTIN EMS RUN

50.00  
50.00

100.00

PLEASE DETACH AND FILE

***Cindy Benson***  
***Lander County Fiscal Officer***

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***LANDER COUNTY COMMISSION MEETING***

**October 11, 2018**

**APPROVE**

**Check #200485**

  
Cindy Benson – Fiscal Officer

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COUNTY OF LANDER  
BATTLE MOUNTAIN, NEVADA

DEBORAH CARDOZA

09/28/18

200485

09/27/18  
09/27/18  
09/27/18

1808280033  
1809120033  
1809170008

8/28/18 AUSTIN EMS RUN  
9/12/18 FIRE STANDBY  
9/18/18 AUSTIN EMS RUN

100.00  
100.00  
100.00

300.00

PLEASE DETACH AND FILE

*Cindy Benson*  
*Lander County Fiscal Officer*

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**LANDER COUNTY COMMISSION MEETING**

**October 11, 2018**

**APPROVE**

**Check #200512**

  
Cindy Benson – Fiscal Officer

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COUNTY OF LANDER  
BATTLE MOUNTAIN, NEVADA

TODD A. PLIMPTON

10/04/18

200512

10/04/18

2018 4TH QUARTER

9/20/18

23,346.58

23,346.58

PLEASE DETACH AND FILE

LANDER COUNTY COMMISSIONERS MEETING  
10/11/2018

Agenda Item Number \_\_1\_\_

***THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:***

Discussion and possible action regarding an update on the Austin Youth Center Roof, and all other matters properly related thereto.

Public Comment:

Background: **attached**

Recommended Action:

AGENDA REQUEST FORM



COMMISSIONER MEETING DATE: October 11, 2018

NAME Anna Penola REPRESENTING: Building Dept.

ADDRESS: 50 State Route 305

PHONE(H): \_\_\_\_\_ (W): (775) 455-7753 (FAX): \_\_\_\_\_

WHICH NUMBER SHOULD WE CALL DURING NORMAL BUSINESS  
HOURS: work cell

WHO WILL BE ATTENDING THE MEETING Anna Penola

JOB TITLE Building Official

SPECIFIC REQUEST TO BE PLACED ON THE AGENDA: Up date for Austin Youth Center Roof  
Discuss commerical parking lots to be paved

BACKGROUND INFORMATION John Winnepenninx and Gary Sweeney evaluated roof

WHAT ACTION WOULD YOU LIKE THE BOARD TO TAKE TO RESOLVE THIS ISSUE? approval

ARE THERE ANY COSTS ASSOCIATED WITH YOUR REQUEST: YES \_\_\_\_\_ NO x

AMOUNT: \_\_\_\_\_

HAS THIS ISSUE BEEN DISCUSSED AT A PRIOR COMMISSION MEETING? YES \_\_\_\_\_ NO x

WHEN? \_\_\_\_\_

HAS THIS ISSUE BEEN REVIEWED AND APPROVED BY AFFECTED DEPT HEADS YES x NO \_\_\_\_\_

ALL BACKUP MATERIAL MUST BE PROVIDED WITH AGENDA REQUEST – NOT AT THE MEETING,

IS ALL THE BACKUP MATERIAL ATTACHED TO THIS AGENDA REQUEST? YES x NO \_\_\_\_\_

IF THE ITEM IS A CONTRACT AND/OR AGREEMENT, OR REQUIRES LEGAL REVIEW, IT MUST BE REVIEWED  
BY THE DISTRICT ATTORNEY'S OFFICE PRIOR TO AGENDA SETTING OR IT WILL NOT GO ON THE AGENDA.

HAS THE DISTRICT ATTORNEY'S OFFICE PROVIDED THE REQUIRED REVIEW? YES x NO \_\_\_\_\_

**THE COMMISSIONERS RESERVE THE RIGHT TO REJECT OR RECOMMEND TABLING ALL AGENDA  
REQUESTS FOR INSUFFICIENT INFORMATION.**

ALL INFORMATION STATED IS CORRECT AND TRUE TO MY KNOWLEDGE.

DATE \_\_\_\_\_

BOARD MEETS THE 2<sup>ND</sup> AND 4<sup>TH</sup> THURSDAY OF EACH MONTH  
COMMISSION FAX (775) 635-5332

John F. Winnepenninkx  
PO Box 164  
Battle Mountain, NV 89820  
NV. Contractor's License #0071022  
775-635-5343  
775-635-3838

Lander County  
Building and Planning Department  
50 Highway 305  
Battle Mountain, NV 89820

09/21/18

Assessment of the Austin youth center building and roof structure.

I inspected the roof on the youth center with General Contractor Gary Sweeney. The roof is 79 feet long by about 28 feet wide with a bell tower and bell at the west end of the building adjoining the west end parapet wall. The roof is made up of 2x6 rafters at the east end of the building and log rafters and beams at the west end. The rafters are spaced approximately 4 foot apart. The rafters are covered with one inch boards that are spaced about 4 inches apart. These boards are covered with wood shingles which are covered with very old 2 foot wide, rusted, metal panels. The metal panels are then covered with a layer of plywood which is covered by 3-tab asphalt shingles on the north slope and rolled asphalt on the south slope. The roof assembly is setting on top of a rock wall of about 12 to 16 inches thick. On the west end and north side of the building there is another wall inside of the outer wall. The length of this interior wall is not known. There is an old doorway on the south side where the wall juts out another 8 inches from the other end. This feature makes the building wider at the east end. The roof assembly is setting on top of a 1x8 inch plank setting on top of the rock wall. The wall slopes from inside toward the outside of the building. It appears that the roof assembly is not anchored to the 1x8 or the rock wall. The roof is merely "sitting" on the wall. The east end, with its 2x6 rafters, was, in the distant past, subjected to a building fire. The rafters and all supporting members are charred significantly. The majority of the rock wall is in fact made of flat rocks cemented together. The top of the wall is eroded and very jagged and is out of level as much as 5 inches from one end of the building to the other. Part of the south side roof is sloped toward, and attached to, another building. There is a valley constructed between the two buildings to prevent rain water from running off of the youth center into the adjoining building. There is a dirt bank on the south side of the youth center that slopes toward the building. Any runoff of rain or snow flows to the wall of the youth center. The youth center building has been modified many times in the past with modern materials added on to, or replacing the original construction materials.

In order to keep the roof assembly leak free, the entire roof structure would need to be removed. A cement cap would need to be poured on top of the wall and new trusses anchored to the wall. However, there is no cost effective way to do this. This process would be feasible if the walls were made of concrete or wood. Trying to drill into the existing rock would cause shattering of the rock making the wall even weaker than it is currently. In its current condition, any attempt to set trusses on the walls would result in custom fitting each truss.


The only historic value of the building is the bell tower and the bell. The building has been modified



so many times in its history that any original structure no longer exists.

My recommendation would be to remove the bell tower and bell for preservation. Demolish the existing building thus preserving the adjoining building to the south. I would also recommend that a new building be constructed on the site. The building should be built with material that is not significantly different from the surrounding buildings. The cost of trying to preserve the existing building would be cost prohibitive and of no real historic value.

John F. Winnepenninkx

A handwritten signature in cursive script, appearing to read "John", positioned below the printed name.

Nevada Roofing Contractor

LANDER COUNTY COMMISSIONERS MEETING  
10/11/2018

Agenda Item Number \_\_2\_\_

***THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:***

Discussion and possible action regarding off street public parking regulations (LLC 17.08.020) and the future pavement of alleyways in Battle Mountain, Nevada, and all other matters properly related thereto.

Public Comment:

Background: **attached LCC 17.08.020**

Recommended Action:

17.08.020 - Off-street parking regulations.

- A. Required. Off-street parking vehicle space shall be provided for all buildings and uses as hereinafter specified unless otherwise defined. Such parking shall be reasonably adjacent to the use or building being served; be intended specifically to serve the residents, patrons or employees of said use or building; and the required number of spaces must be demonstrably usable and accessible for such purposes.
- B. Application to Existing Uses. The provision of parking spaces shall not be required for legally existing uses as of the date of this chapter, but shall be required for any extension of such use by the addition of new primary floor area or other special spatial expansion of building or use generating new parking demand.
- C. Parking, Storage or Use of Major Recreational Equipment. For the purposes of these regulations, major recreational equipment includes boats and boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreation equipment, whether occupied by such equipment or not.
1. Major recreation equipment shall be parked or stored on the lot and not in the street in a residential zone.
  2. No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.
- D. Parking, Storage or Use of Commercial, Industrial or Agricultural Equipment.
1. No commercial, industrial or agricultural vehicles with a gross vehicle weight over five tons shall be parked anywhere in a residential zone.
  2. No such vehicles equipped with tandem axles shall be parked anywhere in a residential zone.
- E. Determination of Need. The number of parking spaces required shall be based upon the anticipated parking demand of the individual uses and shall be as follows or as may be designated hereinafter for specific uses or situations; a combination of uses permitted shall provide off-street space in ratio to the combined uses:

| USE                                                                   | MINIMUM PARKING REQUIREMENTS                              |
|-----------------------------------------------------------------------|-----------------------------------------------------------|
| All single and/or multiple residential including manufactured housing | 2 spaces per dwelling unit, manufactured housing or suite |
| For each guest bedroom in a lodging house, club or fraternity         | 1 space plus 1 for each 3 beds                            |

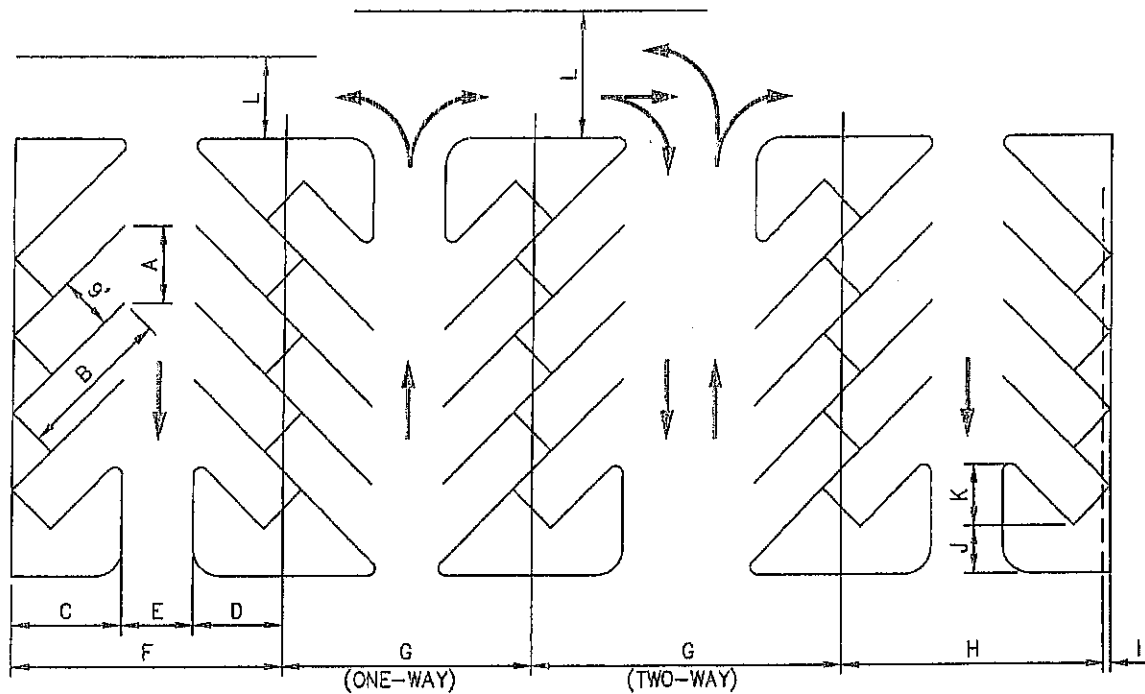
|                                                                                                   |                                                                                                                                                                                           |
|---------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Public assembly facilities providing for seated audiences (churches, theaters, auditoriums, etc.) | 1 space for every 5 seats                                                                                                                                                                 |
| Hospitals                                                                                         | 1 space for every 2 beds plus 1 space for each medical staff member plus 1 space for every 3 employees                                                                                    |
| Nursing, convalescent, rest and old age homes                                                     | 1 space for every 2 beds plus 1 space for each staff member employee                                                                                                                      |
| Bowling alley                                                                                     | 4 spaces per alley                                                                                                                                                                        |
| Motels, hotels or other transient lodging facilities (regardless of a particular zoning)          | 1 space for each guest room unit up to and including 30 guest rooms or units, plus parking spaces equal to not less than 80 percent of the number of guest rooms or units in excess of 30 |
| Clinics/dental offices                                                                            | 5 spaces for each practitioner on the staff                                                                                                                                               |
| Business offices                                                                                  | 1 space for each 250 square feet GFA                                                                                                                                                      |
| All C-1 and TC classification not otherwise listed                                                | 1 space for each 300 square feet GFA                                                                                                                                                      |
| Delivery or service vehicles                                                                      | Space as required                                                                                                                                                                         |
| All C-2 and industrial classifications not otherwise listed                                       | 1 space for each 1000 square feet GFA                                                                                                                                                     |
| Auto service stations                                                                             | 3 spaces per service bay plus 3 spaces                                                                                                                                                    |
| Customer service establishments                                                                   | 1 space for each 200 square feet                                                                                                                                                          |
| Restaurants, taverns, clubs, etc.                                                                 | 1 space for each 100 square feet                                                                                                                                                          |

- F. Parking spaces as required in the foregoing shall be on the same lot with the main building, except that in the case of buildings other than dwellings, spaces may be located as far away as six hundred feet. Every parcel of land hereafter used as a public parking area shall be surfaced with asphalt, concrete or other hard surfaces constructed to current Lander County Orange Book standards. Any lights used to illuminate said parking area shall be so arranged to reflect the light away from the adjoining premises in a residential district.
- G. Parking requirements shall at no time be considered sufficient for any additional use of premises, and additional spaces shall be provided to meet requirements when there is any change to a different industrial use or to a commercial use.
- H. General Requirements and Parking Criteria.
1. Any off-street parking area other than provided for a residence, having a capacity for more than three vehicles, shall be hard surfaced, fitted with bumper guards and permanently maintained.
  2. Any off-street parking area, other than that provided for a residence, which abuts or faces a residential district shall provide a planting screen, landscape fence or wall at least four feet in height along the side abutting or fronting on a residential district. Plans for such a screen shall be submitted to the planning commission for approval before installation.
  3. Off-street parking may be established in required rear or side yards in any residential zone, R-1, R-2 and R-3 and in front, rear or side yards in R-4 and nonresidential zones:
    - a. Fifty percent (up to forty feet) of the available curb parking space adjacent to the exterior boundaries of the property may be deducted from the eighty feet total off-street parking facilities required.
    - b. When off-street parking facilities are located adjacent to a public right-of-way, the width of the right-of-way may be assumed to be a portion of the maneuvering space.
    - c. If suitable, available, adjacent or nearby public parking places exist, the planning commission may permit modifications in specific off-street parking requirements.
    - d. No vehicles constituting an eyesore, creating a public safety hazard, or considered a nuisance shall be parked anywhere in a residential zone.
    - e. Driveways or other areas required to move cars in or out of parking spaces are not to be considered in meeting off-street parking space requirements.
    - f. Off-street parking may be permitted in any zone which is more restrictive than that required for the major land use it is intended to serve:



- i. Subject to the issuance of a special use permit;
  - ii. Provided that no advertising signs be erected or used in connection therewith.
- 4. Lights provided in any parking area shall be hooded or beamed as not to create undesirable glare or illumination of adjacent property.
- 5. For the purpose of this chapter, one parking space shall not be less than one hundred eighty square feet in area. When the required number of off-street spaces results in a fractional space, fractions over one-half shall require additional space.
- 6. Open parking of cars accessory to a residential use shall be limited to those actually used by the residents, or for temporary parking of guests. Storage of unused or inoperative vehicles is prohibited.
- 7. In a nonresidential district, at least five percent of the total area used for parking and related activities shall be landscaped by planting new or preserving existing trees and shrubs.
- 8. In cases of uncertainty or where requirements are not specifically enumerated, the planning commission shall determine the appropriate parking requirements unique to the specific situation.

(Ord. 94-4 § 12.04.02, 1994)



|                 | DIMENSION ITEM             | SYMBOL | PARKING ANGLE |      |      |      |
|-----------------|----------------------------|--------|---------------|------|------|------|
|                 |                            |        | 45°           | 60°  | 75°  | 90°  |
|                 | STALL WIDTH, PARALLEL      | A      | 12.7          | 10.4 | 9.3  | 9.0  |
|                 | STALL LENGTH, OF LINE      | B      | 25.0          | 22.0 | 20.0 | 18.5 |
|                 | STALL DEPTH TO WALL        | C      | 17.5          | 19.0 | 19.5 | 18.5 |
|                 | STALL DEPTH TO INTERLOCK   | D      | 15.3          | 17.5 | 18.8 | 18.5 |
| ONE-WAY TRAFFIC | aisle width between stalls | E      | 12.0          | 16.0 | 23.0 | 26.0 |
|                 | module, wall to interlock  | F      | 44.8          | 52.5 | 61.3 | 63.0 |
|                 | module, interlocking       | G      | 42.6          | 51.0 | 61.0 | 63.0 |
|                 | module, curb to interlock  | H      | 42.8          | 50.2 | 58.8 | 60.5 |
| TWO-WAY TRAFFIC | aisle width between stalls | E      | 20.0          | 20.0 | 23.0 | 26.0 |
|                 | module, wall to interlock  | F      | 52.8          | 56.5 | 61.3 | 63.0 |
|                 | module, interlocking       | G      | 50.6          | 55.0 | 61.0 | 63.0 |
|                 | module, curb to interlock  | H      | 50.8          | 54.2 | 58.8 | 60.5 |
|                 | bumper overhang (typical)  | I      | 2.0           | 2.3  | 2.5  | 2.5  |
|                 | offset                     | J      | 6.3*          | 2.7  | 0.5  | 0.0  |
|                 | setback                    | K      | 11.0          | 8.3  | 5.0  | 0.0  |
|                 | cross-aisle, one way       | L      | 14.0*         | 14.0 | 14.0 | 14.0 |
|                 | cross aisle, two way       | L      | 24.0*         | 24.0 | 24.0 | 24.0 |

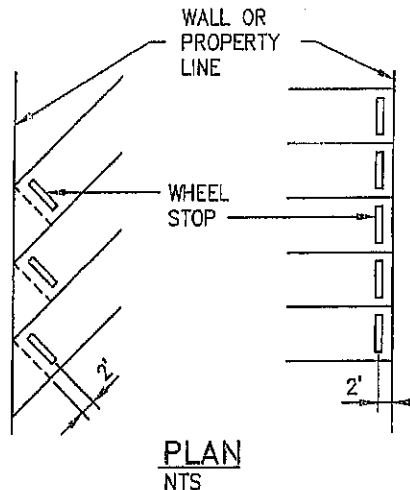
### NOTES

1. PARKING LOTS OF MORE THAN 20 SPACES MAY DESIGNATE UP TO 15% OF THE TOTAL REQUIRED OFF-STREET PARKING AS COMPACT CAR SPACES, EACH HAVING A MINIMUM LENGTH OF 16 FEET AND MINIMUM WIDTH OF 8 FEET AND CLEARLY MARKED "COMPACT PARKING ONLY".
  2. PARALLEL PARKING STALLS SHALL BE 9 FEET WIDE x 22 FEET LONG (MINIMUM).
- \* MINIMUM - ANY PARKING CONFIGURATION (0-45 DEGREES).

| NO. | REVISION | DATE | STANDARD DETAIL FOR PUBLIC WORKS CONSTRUCTION | SECTION       |
|-----|----------|------|-----------------------------------------------|---------------|
|     |          |      |                                               | LANDER COUNTY |
|     |          |      |                                               | DRAWING NO.   |
|     |          |      |                                               | LA-5.5.1      |
|     |          |      |                                               | DATE          |
|     |          |      |                                               | 9/2014        |

## PARKING LOT REQUIREMENTS

APPROVED BY: \_\_\_\_\_



### TYPICAL PAVEMENT SECTION

1. PARKING LOTS WILL BE CONSTRUCTED WITH A MINIMUM OF 2.5 INCHES OF A.C. SURFACE ON 6 INCHES OF TYPE 2 CLASS B AGGREGATE BASE (BOTH COMPACTED TO 95% MIN.)

### WHEEL STOPS

1. WHEEL STOPS WILL BE 2 FEET (MIN.) FROM PROPERTY LINE OR APPURTENANCES.
2. WHEEL STOP WILL BE SECURED WITH 0.5 INCH REBAR DRIVEN 12 INCHES (MIN.) INTO SURFACE OR WITH AN APPROVED EPOXY HAVING A SETTING TIME OF 4-HOUR (MAX.) AT 77 DEGREES FAHRENHEIT.
3. WHEEL STOPS WILL BE WHITE OR SAFETY YELLOW WITH 0.25 CANDLE POWER REFLECTIVITY.
4. WHEEL STOP DIMENSIONS WILL BE 4 INCHES TO 7 INCHES HIGH X 4 FEET (MIN.) LONG X 6 INCHES (MIN.) WIDE. WHEEL STOP LOCATION SHALL SECURE VEHICLE TIRES.
5. MINIMUM WALL THICKNESS FOR METAL STOPS WILL BE 0.25 INCHES, FOR POLYETHYLENE OR FIBERGLASS WHEEL STOPS - 0.75 INCHES.
6. WOOD WHEEL STOPS WILL BE REDWOOD #2 OR BETTER.
7. CONCRETE WHEEL STOPS WILL HAVE A MINIMUM TENSILE STRENGTH OF 2000 P.S.I. (ASTM D-746).
8. IMPACT BRITTLE TEMPERATURE SHALL BE -75 DEGREES CELSIUS. (ASTM D-746).
9. ELONGATION SHALL BE LIMITED TO 35 PERCENT AT 73 DEGREES FAHRENHEIT (ASTM D638).

### STRIPING

1. PARKING LOT STRIPING SHALL BE WHITE WITH A MINIMUM WIDTH OF 4 INCHES. PAINT SHALL BE SPECIFIED "TRAFFIC STRIPING PAINT" OR HAVE MANUFACTURER'S CERTIFICATION OF SUITABLE APPLICATION ON ASPHALTIC OR CONCRETE SURFACES.

### LIGHTING

1. APPLICATION LEVEL WILL BE 1.0 FOOT CANDLES (MIN.) WITH A UNIFORMITY RATIO (AVERAGE ILLUMINATION) NOT EXCEEDING 6:1 AND AS APPROVED BY THE PUBLIC WORKS DEPARTMENT DEPENDING ON PEDESTRIAN VOLUMES.
2. LIGHT FIXTURES SHALL BE FULL CUT-OFF FIXTURES AS DEFINED BY THE ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA (IESNA) UNLESS OTHERWISE APPROVED BY THE LANDER COUNTY ENGINEER OR PUBLIC WORKS DIRECTOR.
3. LIGHT POLES SHALL BE LOCATED TO ELIMINATE INTERFERENCE WITH VEHICULAR OR PEDESTRIAN TRAFFIC (AT THE END OF PARKING ROWS WHEN PRACTICAL) AND AS APPROVED BY THE PUBLIC WORKS DEPARTMENT. POLES SHALL NOT BE LOCATED NEXT TO TREES.
4. MOUNTING POLES WILL COMPLY WITH THE SAME SPECIFICATIONS PRESCRIBED FOR URBAN COLLECTOR STREET USE.

| NO.                | REVISION | DATE | STANDARD DETAIL FOR PUBLIC WORKS CONSTRUCTION | SECTION                 |
|--------------------|----------|------|-----------------------------------------------|-------------------------|
|                    |          |      | <b>PARKING LOT<br/>REQUIREMENTS</b>           | LANDER COUNTY           |
|                    |          |      |                                               | DRAWING NO.<br>LA-5.5.2 |
|                    |          |      |                                               | DATE<br>9/2014          |
|                    |          |      |                                               |                         |
| APPROVED BY: _____ |          |      |                                               |                         |



LANDER COUNTY COMMISSIONERS MEETING  
10/11/2018

Agenda Item Number \_\_3\_\_

*THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:*

Discussion for possible action regarding retraction of the Lander County Burn Ban, and all other matters properly related thereto.

Public Comment:

Background: **The Burn Ban advertisement is attached.**

Recommended Action:

# BURN BAN IN EFFECT

AT IT'S REGULAR COMMISSION MEETING ON JUNE 28, 2018, THE LANDER COUNTY BOARD OF COMMISSIONERS VOTED UNANIMOUSLY TO PLACE A BURN BAN IN EFFECT WITHIN LANDER COUNTY. THIS BURN BAN IS EFFECTIVE IMMEDIATELY AND WILL LAST UNTIL FURTHER NOTICE. THIS INCLUDES BURN BARRELS.



LANDER COUNTY COMMISSIONERS MEETING  
10/11/2018

Agenda Item Number \_\_4\_\_

***THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:***

Discussion only for a Progress report given by Lisa Taylor regarding the UNCE- Lander County Cooperative Extension, and all other matters properly related thereto.

Public Comment:

Background: Lander County Cooperative Extension Stakeholder Report Spring & Summer, 2018 attached-  
Power Point will be presented at the meeting.

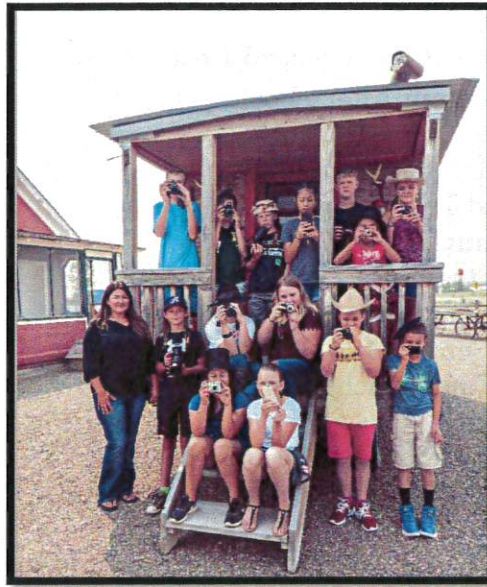
Recommended Action: This is a non-action item.



## University of Nevada Cooperative Extension

Lander County Cooperative Extension  
815 N. 2nd Street  
Battle Mountain, NV 89820  
[www.unce.unr.edu/counties/lander](http://www.unce.unr.edu/counties/lander)  
775-635-5565 (o) 775-635-8309 (f)

University of Nevada Cooperative Extension (UNCE) is the University – Lander County partnership that puts university research to work in our county's rural settings; on public rangelands; in schools; on family farms and ranches; and in our homes, workplaces and communities. Cooperative Extension assists the County and its citizens in community engagement, providing youth development activities, assisting agricultural producers in farm and range management, providing best management practices to protect our precious natural resources, providing educational programming for improved health and nutrition and preparing our youth with life skills for use in their future career, community, and family activities. In 2018, significant program activities in the county included 4-H youth development; agriculture; exercise, food and nutrition; and horticulture research and programming.



**4-H Youth Development.** Charlene Fetterly, the Lander County Community Based Instructor II, provided leadership working with both youth and volunteers to offer a variety of nontraditional programs including Battle Mountain after-school programming, summer Battle Mountain 4-H Youth Photography Camp with 14 participants held at the Cookhouse Museum, and traditional clubs addressing interests such as shooting sports, fiber arts, small animal, large livestock, photography, and advanced beginning and Lego Robotics, among others.

She is a statewide trainer for the Youth for the Quality Care of Animals program and serves on the Nevada 4-H Livestock Committee that is planning important aspects of the 2019 4-H Expo to be held in Winnemucca, Nevada mid-September of 2019.

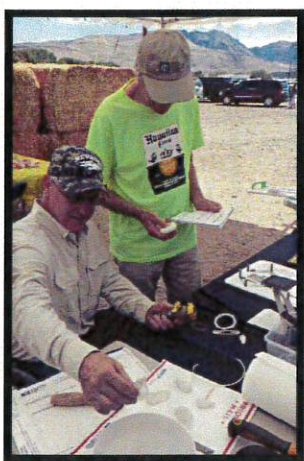


## Lander County 4-H Events and Education

- Battle Mountain Afterschool
- Battle Mountain 4-H Youth Photography Celebration
- Eureka and Tri-county Fairs
- Battle Mountain Club officer leadership training
- Large/small animal workshops
- Northern/Central 4-H Camp
- Club and County Achievement Recognition
- Nevada Youth for Quality Care of Animals Program



- Nevada Livestock Judging, Skill-a-thon and Quiz Bowl Contests



**Agriculture.** Informing producers, their families, and veterans about assistive technology, tools, and services that can help in their agricultural business and production activities is a primary emphasis that has been initiated with the UNR Center for Excellence in Disabilities and the Nevada Small Business Development Center's **Boots for Business** program for Nevada Veterans. As well, efforts continue to help access resources and training for producers to increase the profitability of their operations through the *Cattleman's Update* and *Nevada Agricultural Risk Management* programs. They assist producers through education about monitoring impacts of drought conditions, using market cattle trends, and updates on critical issues such as Humboldt River Basin Watershed updates.

**Health and Nutrition.** *Seniors Eating Well* is an 8-week lesson series that will be complete on Monday, 9/24/2018 with 11 seniors participating every Monday at the Battle Mountain Senior Center. The goals of the program are to reinforce healthy eating habits and lifestyles, preventing chronic diseases and saving health-care costs for the entire community. In late October, the *Stay Strong Stay Healthy* exercise program is targeted to be provided for seniors in two Lander County locations as a result of a statewide Extension grant funded program. This program's goals are preventing falls and building strength.

**Horticulture.** Lander County residents' questions on garden pests, irrigation, tree issues, and weed concerns have made up the majority of horticulture assessments and education so far in 2018. The *Grow Your Own* series provided horticultural and gardening information to homeowners who desire to become successful backyard food producers in Nevada's unique high-desert climate. More than thirty citizens have already participated in Lander County classes to date in 2018 and there are still two sessions offered on Tuesday evenings this fall on cover crops and selecting fruit trees.

### Upcoming programs in the next quarter:

|                  |                                                                       |
|------------------|-----------------------------------------------------------------------|
| Sept. 25, Oct. 2 | Grow Your Own - Cover Crops for Home Gardeners & Fruit Tree Selection |
| Oct. 4           | Lander County 4-H Record Books Due                                    |
| Oct. 15          | Stay Strong Stay Healthy – 8-week Exercise Series                     |
| Nov. 19          | Recognizing and Reporting Child Abuse and Neglect Class               |
| Nov. 19          | Seniors Eating Well – 8-Week Nutrition Series                         |

LANDER COUNTY COMMISSIONERS MEETING  
10/11/2018

Agenda Item Number \_\_5\_\_

***THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:***

Discussion and possible action regarding a contract between United Construction and Lander County for the remodel of the Lander County Sheriff's Office to approve/disapprove/modify, and all other matters properly related thereto.

Public Comment:

Background:

Recommended Action:



**ConsensusDocs®**  
BUILDING A BETTER WAY

**ConsensusDocs® 200**  
**STANDARD AGREEMENT AND GENERAL CONDITIONS BETWEEN OWNER AND**  
**CONSTRUCTOR (Lump Sum)**

**TABLE OF ARTICLES**

1. AGREEMENT
2. GENERAL PROVISIONS
3. CONSTRUCTOR'S RESPONSIBILITIES
4. OWNER'S RESPONSIBILITIES
5. SUBCONTRACTS
6. TIME
7. PRICE
8. CHANGES
9. PAYMENT
10. INDEMNITY, INSURANCE, AND BONDS
11. SUSPENSION, NOTICE TO CURE, AND TERMINATION
12. DISPUTE MITIGATION AND RESOLUTION
13. MISCELLANEOUS
14. CONTRACT DOCUMENTS

**ARTICLE 1 AGREEMENT**

Job Number: 18-11-069

This Agreement is made this [ ] day of [ ] in the year [ ],

by and between the

OWNER,  
Lander County  
50 State Route 305  
Battle Mountain, NV 89820

and the

CONSTRUCTOR,  
United Construction Company  
5300 Mill Street  
Reno, NV 89502





Tax identification number (TIN) 88-0147530  
Contractor License No., if applicable 0015417

for construction and services in connection with the following

PROJECT Lander County Public Safety Building Misc Repairs

Design Professional is N/A.

## ARTICLE 2 GENERAL PROVISIONS

**2.1 PARTIES' RELATIONSHIP** Each Party agrees to act on the basis of mutual trust, good faith, and fair dealing, and perform in an economical and timely manner. The Parties shall each endeavor to promote harmony and cooperation among all Project participants.

2.1.1 Neither Constructor nor any of its agents or employees shall act on behalf of or in the name of Owner unless authorized in writing by the Owner.

**2.2 ETHICS** Each Party shall perform with integrity. Each shall: (a) avoid conflicts of interest; and (b) promptly disclose to the other Party any conflicts that may arise. Each Party warrants it has not and shall not pay or receive any contingent fees or gratuities to or from the other Party, including its agents, officers, employees, Subcontractors, Subsubcontractors, Suppliers, or Others to secure preferential treatment.

**2.3 DESIGN PROFESSIONAL** Owner, through its Design Professional, shall provide all architectural and engineering design services necessary for the completion of the Work excluding, however, (a) design services delegated to Constructor in accordance with §3.15, and (b) services within the construction means, methods, techniques, sequences, and procedures employed by Constructor, its Subcontractors and Subsubcontractors in connection with their construction operations.

2.3.1 Owner shall obtain from Design Professional either a license for Constructor and Subcontractors to use the design documents prepared by Design Professional or ownership of the copyrights for such design documents. Owner shall indemnify and hold harmless Constructor against any suits or claims of infringement of any copyrights or licenses arising out of the use of the design documents for the Project.

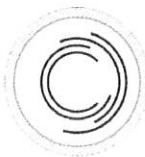
## 2.4 DEFINITIONS

2.4.1 "Agreement" means this ConsensusDocs 200 Standard Agreement and General Conditions Between Owner and Constructor (Lump Sum), as modified, and exhibits and attachments made part of this agreement upon its execution.

2.4.2 "Business Day" means all Days, except weekends and official federal or state holidays where the Project is located.

2.4.3 A "Change Order" is a written order signed by the Parties after execution of this Agreement, indicating a change in the scope of the Work, Contract Price, or Contract Time, including substitutions proposed by Constructor and accepted by Owner.

2.4.4 The "Contract Documents" consist of (a) this Agreement; (b) documents listed in §14.1 as existing contract documents; (c) drawings, specifications, addenda issued and acknowledged before execution of this Agreement; (d) information furnished by Owner pursuant to §3.13.4; and (e) Change Orders, Interim Directives, and amendments issued in accordance with this Agreement.





2.4.5 "Contract Price" is the amount indicated in §7.1 and represents full compensation for performance by the Constructor of the Work in conformance with the Contract Documents.

2.4.6 "Contract Time" is the period between the Date of Commencement and the total time authorized to achieve Final Completion in §6.1.1.

2.4.7 "Constructor" is the person or entity identified in ARTICLE 1. References to General Contractor or Contractor in the Contract Documents may be a reference to Constructor.

2.4.8 "Cost of the Work" means the costs and discounts specified in §8.2.4.

2.4.9 "Date of Commencement" is as set forth in §6.1.

2.4.10 "Day" means a calendar day.

2.4.11 "Defective Work" is any portion of the Work that does not conform to the requirements of the Contract Documents.

2.4.12 "Design Professional" means the licensed architect or engineer, and its consultants, retained by Owner to perform design services for the Project.

2.4.13 "Final Completion" occurs on the date when Constructor's obligations under this Agreement are complete and accepted by Owner and final payment becomes due and payable. This date shall be confirmed by a Certificate of Final Completion signed by Parties.

2.4.14 "Hazardous Material" is any substance or material identified now as hazardous under the Law, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling, disposal, or cleanup.

2.4.15 "Law" means federal, state, or local law, ordinance, code, rule, and regulations applicable to the Work with which Constructor must comply that are enacted as of the Agreement date.

2.4.16 "Others" means Owner's other: (a) contractors/constructors, (b) suppliers, (c) subcontractors, subsubcontractors, or suppliers of (a) and (b); and others employed directly or indirectly by (a), (b), or (c) or any by any of them or for whose acts any of them may be liable.

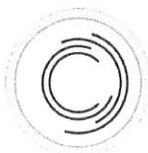
2.4.17 "Overhead" means (a) payroll costs, burden, and other compensation of Constructor's employees in Constructor's principal and branch offices; (b) general and administrative expenses of Constructor's principal and branch offices including charges against Constructor for delinquent payments; and (c) Constructor's capital expenses, including interest on capital used for the Work.

2.4.18 "Owner" is the person or entity identified in ARTICLE 1.

2.4.19 The "Parties" are collectively Owner and Constructor.

2.4.20 The "Project," as identified in ARTICLE 1, is the building, facility, or other improvements for which Constructor is to perform Work under this Agreement. It may also include construction by Owner or Others.

2.4.21 The "Schedule of the Work" is the document prepared by Constructor that specifies the dates on which Constructor plans to begin and complete various parts of the Work, including dates on which information and approvals are required from Owner.



2.4.22 A "Subcontractor" is a person or entity retained by Constructor as an independent contractor to provide the labor, materials, equipment, or services necessary to complete a specific portion of the Work. The term Subcontractor does not include Design Professional or Others.

2.4.23 "Substantial Completion" of the Work, or of a designated portion, occurs on the date when the Work is sufficiently complete in accordance with the Contract Documents so that Owner may occupy or utilize the Project, or a designated portion, for the use for which it is intended, without unapproved disruption. The issuance of a certificate of occupancy is not a prerequisite for Substantial Completion if the certificate of occupancy cannot be obtained due to factors beyond Constructor's control. This date shall be confirmed by a Certificate of Substantial Completion signed by the Parties.

2.4.24 A "Subsubcontractor" is a person or entity who has an agreement with a Subcontractor, another subsubcontractor, or Supplier to perform a portion of the Work or to supply material or equipment.

2.4.25 "Terrorism" means a violent act, or an act that is dangerous to human life, property, or infrastructure, that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion. Terrorism includes, but is not limited to, any act certified by the United States government as an act of terrorism pursuant to the Terrorism Risk Insurance Act, as amended.

2.4.26 "Work" means the construction and services necessary or incidental to fulfill Constructor's obligations for the Project in accordance with and reasonably inferable from the Contract Documents. The Work may refer to the whole Project or only a part of the Project if work is also being performed by Owner or Others.

2.4.27 "Worksite" means the area of the Project location identified in ARTICLE 1 where the Work is to be performed.

### **ARTICLE 3 CONSTRUCTOR'S RESPONSIBILITIES**

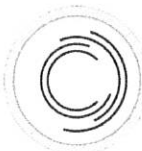
Constructor shall use its diligent efforts to perform the Work in an expeditious manner consistent with the Contract Documents. Such Work includes furnishing construction administration and management services.

#### **3.1 GENERAL RESPONSIBILITIES**

3.1.1 Constructor shall provide all labor, materials, equipment, and services necessary to complete the Work, all of which shall be provided in full accord with the Contract Documents and shall include any Work reasonably inferable from the Contract Documents.

3.1.2 Constructor represents that it is an independent contractor and that it is familiar with the type of work required by this Agreement.

3.1.3 Unless the Contract Documents instruct otherwise, Constructor shall be responsible for the supervision and coordination of the Work, including the construction means, methods, techniques, sequences, and procedures utilized. When following construction means, methods, techniques, sequences, or procedures instructed by the Contract Documents, Constructor is not liable to Owner for damages resulting from compliance with such instructions unless (a) Constructor recognized and (b) failed to timely report to Owner any error, inconsistency, omission, or unsafe practice that it discovered in such requirements.



3.1.4 Constructor shall perform Work only within locations allowed by the Contract Documents, Law, and applicable permits.

### 3.2 COOPERATION WITH WORK OF OWNER AND OTHERS

3.2.1 Owner may perform work at the Worksite directly or by Others. Any agreements with Others to perform construction or operations related to the Project shall include provisions pertaining to insurance, indemnification, waiver of subrogation, consequential damages, coordination, interference, cleanup, and safety that are substantively the same as the corresponding provisions of this Agreement.

3.2.2 If Owner elects to perform work at the Worksite directly or by Others, the Parties shall coordinate the activities of all forces at the Worksite and agree upon fair and reasonable schedules and operational procedures for Worksite activities. Owner shall require each separate contractor to cooperate with Constructor and to assist with the coordination of activities and the review of construction schedules and operations. In accordance with §6.3, Contract Price and Contract Time may be equitably adjusted for changes resulting from the coordination of construction activities, and the Schedule of the Work shall be revised accordingly.

3.2.3 With regard to the work of Owner and Others, Constructor shall: (a) proceed with the Work in a manner that does not hinder, delay, or interfere with the work of Owner or Others or cause the work of Owner or Others to become defective; (b) afford Owner and Others reasonable access for introduction and storage of their materials and equipment and performance of their activities; and (c) coordinate Constructor's Work with theirs.

3.2.4 Before proceeding with any portion of the Work affected by the construction or operations of Owner or Others, Constructor shall give Owner prompt written notification of any defects Constructor discovers in their work which will prevent the proper execution of the Work. Constructor's obligations in this subsection do not create a responsibility for the work of Owner or Others, but are for the purpose of facilitating the Work. If Constructor does not notify Owner of defects interfering with the performance of the Work, Constructor acknowledges that the work of Owner or Others is not defective and is acceptable for the proper execution of the Work. Following receipt of written notice from Constructor of defects, Owner shall promptly issue a written notice informing Constructor what action, if any, Constructor shall take with regard to the defects.

### 3.3 CONTRACT DOCUMENT REVIEW

3.3.1 Before commencing the Work, Constructor shall examine and compare the drawings and specifications with information furnished in the Contract Documents, relevant field measurements made by Constructor, and any visible conditions at the Worksite affecting the Work.

3.3.2 Should Constructor discover any errors, omissions, or inconsistencies in the Contract Documents, Constructor shall promptly report them to Owner. It is recognized, however, that Constructor is not acting in the capacity of a licensed design professional, and that Constructor's examination is to facilitate construction and does not create an affirmative responsibility to detect errors, omissions, or inconsistencies or to ascertain compliance with a Law, building code, or regulation. Following receipt of written notice from Constructor of errors, omissions, or inconsistencies, Owner shall promptly inform Constructor what action, if any, Constructor shall take with regard to the errors, omissions, or inconsistencies.

3.3.3 In accordance with this Agreement, Constructor may be entitled to adjustments of the Contract Price or Contract Time because of clarifications or instructions arising out of Constructor's reports described in this §3.3.



3.3.4 Nothing in §3.3 shall relieve Constructor of responsibility for its own errors, inconsistencies, or omissions.

### 3.4 CONSTRUCTION PERSONNEL AND SUPERVISION

3.4.1 Constructor shall provide competent supervision for the performance of the Work. Before commencing the Work, Constructor shall notify Owner in writing of the name and qualifications of its proposed superintendent(s) and project manager so Owner may review their qualifications. If, for reasonable cause, Owner refuses to approve an individual, or withdraws its approval after once giving it, Constructor shall name a different superintendent or project manager for Owner's review. Any disapproved superintendent shall not perform in that capacity thereafter at the Worksite.

3.4.2 Constructor shall be responsible to Owner for acts or omissions of a person or entity performing on behalf of Constructor or any of its Subcontractors and Suppliers.

3.4.3 Constructor shall permit only qualified persons to perform the Work. Constructor shall enforce safety procedures, strict discipline, and good order among persons performing the Work. If Owner determines that a particular person does not follow safety procedures, or is unfit or unskilled for the assigned Work, Constructor shall immediately reassign the person upon receipt of Owner's Interim Directive to do so.

3.4.4 CONSTRUCTOR'S REPRESENTATIVE Constructor's authorized representative is Casey Gunther. Constructor's Representative shall possess full authority to receive instructions from Owner and to act on those instructions. If Constructor changes its representative or the representative's authority, Constructor shall immediately notify Owner in writing.

3.5 WORKMANSHIP The Work shall be executed in accordance with the Contract Documents in a workmanlike manner. All materials used in the Work shall be furnished in sufficient quantities to facilitate the proper and expeditious execution of the Work and shall be new except as otherwise provided in the Contract Documents.

3.6 MATERIALS FURNISHED BY OWNER OR OTHERS If the Work includes installation of materials or equipment furnished by Owner or Others, it shall be the responsibility of Constructor to examine the items so provided and thereupon handle, store, and install the items, unless otherwise provided in the Contract Documents, with such skill and care as to provide a satisfactory and proper installation. Loss or damage due to acts or omissions of Constructor shall be the responsibility of Constructor and may be deducted from any amounts due or to become due Constructor. Any defects discovered in such materials or equipment shall be reported at once to Owner. Following receipt of written notice from Constructor of defects, Owner shall promptly inform Constructor what action, if any, Constructor shall take with regard to the defects.

### 3.7 TESTS AND INSPECTIONS

3.7.1 Constructor shall schedule all required tests, approvals, and inspections of the Work or portions thereof at appropriate times so as not to delay the progress of the Work or other work related to the Project. Constructor shall give proper notice to all required parties of such tests, approvals, and inspections. If feasible, Owner and Others may timely observe the tests at the normal place of testing. Except as provided in §3.7.3, Owner shall bear all expenses associated with tests, inspections, and approvals required by the Contract Documents, which shall be conducted by an independent testing laboratory or entity retained by Owner. Unless otherwise required by the Contract Documents, required certificates of testing, approval, or inspection shall be secured by Constructor and promptly delivered to Owner.





3.7.2 If Owner or appropriate authorities determine that tests, inspections, or approvals in addition to those required by the Contract Documents will be necessary, Constructor shall arrange for the procedures and give timely notice to Owner and Others who may observe the procedures. Costs of the additional tests, inspections, or approvals are at Owner's expense except as provided in the subsection below.

3.7.3 If the procedures described in the two subsections immediately above indicate that portions of the Work fail to comply with the Contract Documents, Constructor shall be responsible for costs of correction and retesting.

### 3.8 WARRANTY

3.8.1 Constructor warrants that all materials and equipment shall be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. Constructor's warranty does not include remedies for defects or damages caused by normal wear and tear during normal usage, use for a purpose for which the Project was not intended, improper or insufficient maintenance, modifications performed by Owner or others, or abuse. Constructor's warranty shall commence on the Date of Substantial Completion of the Work, or of a designated portion.

3.8.2 To the extent products, equipment, systems, or materials incorporated in the Work are specified and purchased by Owner, they shall be covered exclusively by the warranty of the manufacturer. There are no warranties which extend beyond the description on the face of any such warranty. For such incorporated items, ALL OTHER WARRANTIES EXPRESSED OR IMPLIED INCLUDING THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED.

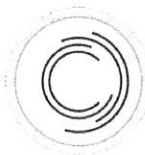
3.8.3 Constructor shall obtain from its Subcontractors and Suppliers any special or extended warranties required by the Contract Documents. Constructor's liability for such warranties shall be limited to the one-year correction period as provided in the section below. After that period, Constructor shall provide reasonable assistance to Owner in enforcing the obligations of Subcontractors or Suppliers for such extended warranties.

### 3.9 CORRECTION OF WORK WITHIN ONE YEAR

3.9.1 Before Substantial Completion and within one year after the date of Substantial Completion of the Work, if any Defective Work is found, Owner shall promptly notify Constructor in writing. Unless Owner provides written acceptance of the condition, Constructor shall promptly correct the Defective Work at its own cost and time and bear the expense of additional services required for correction of any Defective Work for which it is responsible. If within the one-year correction period Owner discovers and does not promptly notify Constructor or give Constructor an opportunity to test or correct Defective Work as reasonably requested by Constructor, Owner waives Constructor's obligation to correct that Defective Work as well as Owner's right to claim a breach of the warranty with respect to that Defective Work.

3.9.2 With respect to any portion of Work first performed after Substantial Completion, the one-year correction period shall commence when that portion of the Work is substantially complete. Correction periods shall not be extended by corrective work performed by Constructor.

3.9.3 If Constructor fails to correct Defective Work within a reasonable time after receipt of written notice from Owner before final payment, Owner may correct it in accordance with Owner's right to carry out the Work. In such case, an appropriate Change Order shall be issued deducting the cost of



correcting the Defective Work from payments then or thereafter due Constructor. If payments then or thereafter due Constructor are not sufficient to cover such amounts, Constructor shall pay the difference to Owner.

3.9.4 Constructor's obligations and liability, if any, with respect to any Defective Work discovered after the one-year correction period shall be determined by the Law. If, after the one-year correction period but before the applicable limitation period has expired, Owner discovers any Work which Owner considers Defective Work, Owner shall, unless the Defective Work requires emergency correction, promptly notify Constructor and allow Constructor an opportunity to correct the Work if Constructor elects to do so. If Constructor elects to correct the Work, it shall provide written notice of such intent within fourteen (14) Days of its receipt of notice from Owner and shall complete the correction of Work within a mutually agreed timeframe. If Constructor does not elect to correct the Work, Owner may have the Work corrected by itself or others, and, if Owner intends to seek recovery of those costs from Constructor, Owner shall promptly provide Constructor with an accounting of actual correction costs.

3.9.5 If Constructor's correction or removal of Defective Work causes damage to or destroys other completed or partially completed Work or existing buildings, Constructor shall be responsible for the cost of correcting the destroyed or damaged property.

3.9.6 The one-year period for correction of Defective Work does not constitute a limitation period with respect to the enforcement of Constructor's other obligations under the Contract Documents.

3.9.7 Before final payment, at Owner's option and with Constructor's agreement, Owner may elect to accept Defective Work rather than require its removal and correction. In such case, the Contract Price shall be equitably adjusted for any diminution in the value of the Project caused by such Defective Work.

### 3.10 CORRECTION OF COVERED WORK

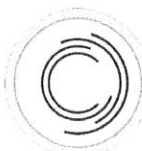
3.10.1 Upon issuance of a written notice, Work that has been covered without a requirement that it be inspected before being covered shall be uncovered for Owner's inspection. Owner shall pay for the costs of uncovering and replacement if the Work proves to be in conformance with the Contract Documents, or if the defective condition was caused by Owner or Others. If the uncovered Work proves to be defective, Constructor shall pay the costs of uncovering and replacement.

3.10.2 If any Work is covered contrary to requirements in the Contract Documents, Owner may issue a written notice to uncover the Work for Owner's observation and recover the Work all at Constructor's expense and with no Contract Time adjustment.

### 3.11 SAFETY

3.11.1 SAFETY PROGRAMS Constructor holds overall responsibility for safety programs. However, such obligation does not relieve Subcontractors their safety responsibilities and to comply with the Law, nor does it relieve Owner or Owner's separate contractors of their responsibility for the safety of their representatives. Constructor shall prevent against injury, loss, or damage to persons or property by taking reasonable steps to protect: (a) its employees and other persons at the Worksite; (b) materials and equipment stored onsite or offsite for use in the Work; and (c) property located at the Worksite and adjacent to work areas.

3.11.2 CONSTRUCTOR'S SAFETY REPRESENTATIVE Constructor shall designate an individual at the Worksite in its employ as its safety representative. Unless otherwise identified by Constructor in writing to Owner, Constructor's project superintendent shall serve as its safety representative.



Constructor shall report promptly in writing to Owner all recordable accidents and injuries occurring at the Worksite. When Constructor is required to file an accident report with a public authority, Constructor shall furnish a copy of the report to Owner.

3.11.3 Constructor shall provide Owner with copies of all notices required of Constructor by Law. Constructor's safety program shall comply with the requirements of authorities having jurisdiction.

3.11.4 Damage or loss not insured under property insurance which may arise from the Work, to the extent caused by the negligent or intentionally wrongful acts or omissions of Constructor, or anyone for whose acts Constructor may be liable, shall be promptly remedied by Constructor.

3.11.5 If Owner deems any part of the Work or Worksite unsafe, Owner, without assuming responsibility for Constructor's safety program, may require by Interim Directive, Constructor to stop performance of the Work, take corrective measures satisfactory to Owner, or both. If Constructor does not adopt corrective measures, Owner may perform them and deduct their cost from the Contract Price. Constructor agrees to make no claim for damages, for an increase in the Contract Price or Contract Time based on Constructor's compliance with Owner's reasonable request.

### 3.12 EMERGENCIES

3.12.1 In an emergency affecting the safety of persons or property, Constructor shall act in a reasonable manner to prevent threatened damage, injury, or loss. Any change in the Contract Price or Contract Time resulting from the actions of Constructor in an emergency situation shall be determined as provided in ARTICLE 8.

### 3.13 HAZARDOUS MATERIALS

3.13.1 Constructor shall not be obligated to commence Work until any Hazardous Material discovered at the Worksite has been removed, rendered, or determined to be harmless by Owner as certified by an independent testing laboratory and approved by the appropriate governmental agency.

3.13.2 If after commencing the Work, Hazardous Material is discovered at the Worksite, Constructor shall be entitled to immediately stop Work in the affected area. Constructor shall promptly report the condition to Owner, Design Professional, and, if required, the governmental agency with jurisdiction.

3.13.3 Constructor shall not resume nor be required to continue any Work affected by any Hazardous Material without written mutual agreement between the Parties after the Hazardous Material has been removed or rendered harmless and only after approval, if necessary, of the governmental agency with jurisdiction.

3.13.4 Owner shall be responsible for retaining an independent testing laboratory to determine the nature of the material encountered and whether the material requires corrective measures or remedial action. Such measures shall be the sole responsibility of Owner, and shall be performed in a manner minimizing any adverse effect upon the Work.

3.13.5 If Constructor incurs additional costs or is delayed due to the presence or remediation of Hazardous Material, Constructor shall be entitled to an equitable adjustment in the Contract Price or the Contract Time in accordance with this Agreement.

3.13.6 To the extent permitted by §6.6 and to the extent not caused by the negligent or intentionally wrongful acts or omissions of Constructor, its Subcontractors and Subsubcontractors, and the agents, officers, directors, and employees of each of them, Owner shall defend, indemnify, and hold



harmless Constructor, its Subcontractors and Subsubcontractors, and the agents, officers, directors, and employees of each of them, from and against all claims, damages, losses, costs, and expenses, including but not limited to reasonable attorneys' fees, costs, and expenses incurred in connection with any dispute resolution procedure, arising out of or relating to the performance of the Work in any area affected by Hazardous Material.

### 3.13.7 MATERIALS BROUGHT TO THE WORKSITE

3.13.7.1 Safety Data Sheets (SDS) as required by Law and pertaining to materials or substances used or consumed in the performance of the Work, whether obtained by Constructor, Subcontractors, Owner, or Others, shall be maintained at the Worksite by Constructor and made available to Owner, Subcontractors, and Others.

3.13.7.2 Constructor shall be responsible for the proper delivery, handling, application, storage, removal, and disposal of all materials and substances brought to the Worksite by Constructor and used or consumed in the performance of the Work. Upon the issuance of the Certificate of Substantial Completion, Owner shall be responsible for materials and substances brought to the Worksite by Constructor if such materials or substances are required by the Contract Documents.

3.13.7.3 To the extent caused by the negligent or intentionally wrongful acts or omissions of Constructor, its agents, officers, directors, and employees, Constructor shall indemnify and hold harmless Owner, its agents, officers, directors, and employees, from and against any and all claims, damages, losses, costs, and expenses, including but not limited to attorneys' fees, costs, and expenses incurred in connection with any dispute resolution procedure, arising out of or relating to the delivery, handling, application, storage, removal, and disposal of all materials and substances brought to the Worksite by Constructor.

3.13.8 §3.13 in its entirety shall survive the completion of the Work or Agreement termination.

### 3.14 SUBMITTALS

3.14.1 Constructor shall submit to Owner and Design Professional all shop drawings, samples, product data, and similar submittals required by the Contract Documents for review and approval. Submittals shall be submitted in electronic form if required by §4.6.1. Constructor shall be responsible for the accuracy and conformity of its submittals to the Contract Documents. At no additional cost, Constructor shall prepare and deliver its submittals in a manner consistent with the Schedule of the Work and in such time and sequence so as not to delay the performance of the Work or the work of Owner and Others. Constructor submittals shall identify in writing for each submittal all changes, deviations, or substitutions from the requirements of the Contract Documents. The approval of any Constructor submittal shall not be deemed to authorize changes, deviations, or substitutions from the requirements of the Contract Documents unless a Change Order or Interim Directive specifically authorizes such deviation, substitution, or change. To the extent a change, deviation, or substitution causes an impact to the Contract Price or Contract Time, such approval shall be memorialized in a Change Order no later than seven (7) Days following approval by Owner. Neither Design Professional nor Owner shall make any change, deviation, or substitution through the submittal process without specifically identifying and authorizing such deviation to Constructor. If the Contract Documents do not contain submittal requirements pertaining to the Work, Constructor agrees upon request to submit in a timely fashion to Design Professional and Owner for review any shop drawings, samples, product data, manufacturers' literature, or similar submittals as may reasonably be required by Owner.





3.14.2 Owner shall be responsible for review and approval of submittals with reasonable promptness to avoid causing delay.

3.14.3 Constructor shall perform all Work strictly in accordance with approved submittals. Approval of shop drawings is not an authorization to perform changed work, unless the procedures of ARTICLE 8 are followed. Approval does not relieve Constructor from responsibility for Defective Work resulting from errors or omissions on the approved shop drawings.

3.14.4 Record copies of the following, incorporating field changes and selections made during construction, shall be accessible at the Worksite and available to Owner upon request: drawings, specifications, addenda, Change Order and other modifications, and required submittals including product data, samples, and shop drawings.

3.14.5 Constructor shall prepare and submit to Owner:

- ☒ Final marked-up as-built drawings;
- ☐ Updated electronic data, in accordance with §4.6.1; or
- ☐ Other documentation required by the Contract Documents that specifies how various elements of the Work were actually constructed or installed.

3.15 DESIGN DELEGATION If the Contract Documents specify that Constructor is responsible for the design of a particular system or component to be incorporated into the Project, then Owner shall specify all required performance and design criteria. Constructor shall not be responsible for the adequacy of such performance and design criteria.

As required by the Law, Constructor shall procure design services and certifications necessary to satisfactorily complete the Work from a licensed design professional. The signature and seal of Constructor's design professional shall appear on all drawings, calculations, specifications, certifications, shop drawings, and other submittals related to the Work designed or certified by Constructor's design professional.

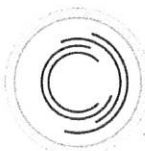
### 3.16 WORKSITE CONDITIONS

3.16.1 WORKSITE VISIT Constructor acknowledges that it has visited, or has had the opportunity to visit, the Worksite to visually inspect the general and local conditions which could affect the Work.

3.16.2 CONCEALED OR UNKNOWN SITE CONDITIONS If a condition encountered at the Worksite is (a) subsurface or other physical condition materially different from those indicated in the Contract Documents, or (b) unusual and unknown physical condition materially different from conditions ordinarily encountered and generally recognized as inherent in Work provided for in the Contract Documents, Constructor shall stop affected Work after the concealed or unknown condition is first observed and give prompt written notice of the condition to Owner and Design Professional. Owner shall investigate and then issue a written notice specifying the extent to which Owner agrees that a concealed or unknown condition exists and directing how Constructor is to proceed. Constructor shall not be required to perform any Work relating to the condition without the written mutual agreement of the Parties. Any change in the Contract Price or the Contract Time as a result of the condition, including any dispute about its existence or nature, shall be determined as provided in ARTICLE 8.

### 3.17 PERMITS AND TAXES

3.17.1 Constructor shall give public authorities all notices required by Law and, except for permits and fees that are the responsibility of Owner, shall obtain and pay for all necessary permits,



licenses, and renewals pertaining to the Work. Constructor shall provide to Owner copies of all notices, permits, licenses, and renewals required under this Agreement.

3.17.2 Constructor shall pay applicable taxes for the Work provided by Constructor.

3.17.3 If, in accordance with Owner's direction, Constructor claims an exemption for taxes, Owner shall indemnify and hold Constructor harmless from any liability, penalty, interest, fine, tax assessment, attorneys' fees, or other expense or cost incurred by Constructor as a result of any such claim.

### 3.18 CUTTING, FITTING, AND PATCHING

3.18.1 Constructor shall perform cutting, fitting, and patching necessary to coordinate the various parts of the Work and to prepare its Work for the work of Owner or Others.

3.18.2 Cutting, patching, or altering the work of Owner or Others shall be done with the prior written approval of Owner. Such approval shall not be unreasonably withheld.

### 3.19 CLEAN UP

3.19.1 Constructor shall regularly remove debris and waste materials at the Worksite resulting from the Work. Before discontinuing Work in an area, Constructor shall clean the area and remove all rubbish and its construction equipment, tools, machinery, waste, and surplus materials. Constructor shall minimize and confine dust and debris resulting from construction activities. At the completion of the Work, Constructor shall remove from the Worksite all construction equipment, tools, surplus materials, waste materials, and debris.

3.19.2 If Constructor fails to commence compliance with cleanup duties within two (2) Business Days after written notification from Owner of non-compliance, Owner may implement appropriate cleanup measures without further notice and shall deduct the reasonable costs from any amounts due or to become due to Constructor in the next payment period.

3.20 ACCESS TO WORK Constructor shall facilitate the access of Owner, Design Professional, and Others to Work in progress.

3.21 COMPLIANCE WITH THE LAW Constructor shall comply with the Law at its own cost. Constructor shall be liable to Owner for all loss, cost, or expense attributable to any acts or omissions by Constructor, its employees, subcontractors, suppliers, and agents for failure to comply with the Law, including fines, penalties, or corrective measures. However, liability under this subsection shall not apply if prior approval by appropriate authorities and Owner is received.

3.21.1 The Contract Price or Contract Time shall be equitably adjusted by Change Order for additional costs or time needed resulting from any change in Law, including increased taxes, enacted after the date of this Agreement.

3.22 CONFIDENTIALITY Constructor shall treat as confidential and not disclose to third-persons, nor use for its own benefit ("Treat as Confidential"), any of Owner's confidential information, know-how, discoveries, production methods, and the like disclosed to Constructor or which Constructor may acquire in performing the Work. To the extent necessary to perform the Work, Constructor's confidentiality obligations do not apply to disclosures to Subcontractors, Subsubcontractors, and Suppliers. Owner shall Treat as Confidential information all of Constructor's estimating systems and historical and parameter cost data disclosed to Owner in performing the Work. Each Party shall specify and mark confidential items as "Confidential." Confidentiality obligations do not supersede compulsion by Law, a governmental



agency or authority, an order of a court of competent jurisdiction, or a validly issued subpoena. In such event, a Party shall promptly notify the other Party to permit that Party's legal objection.

#### ARTICLE 4 OWNER'S RESPONSIBILITIES

**4.1 INFORMATION AND SERVICES** Owner's responsibilities under this article shall be fulfilled with reasonable detail and in a timely manner.

**4.2 FINANCIAL INFORMATION** Before commencing the Work and thereafter, at the written request of Constructor, Owner shall provide Constructor with evidence of Project financing. Evidence of such financing shall be a condition precedent to Constructor's commencing or continuing the Work. Constructor shall be notified before any material change in Project financing.

**4.3 WORKSITE INFORMATION** To the extent Owner has obtained, or is required to obtain the following Worksite information, then Owner shall provide Constructor the following:

4.3.1 information describing the physical characteristics of the Worksite, including surveys, Worksite evaluations, legal descriptions, data or drawings depicting existing conditions, subsurface conditions, and environmental studies, reports, and investigations;

4.3.2 tests, inspections, and other reports dealing with environmental matters, Hazardous Material and other existing conditions, including structural, mechanical, and chemical tests, required by the Contract Documents or by Law;

4.3.3 the limits of Pollution Liability Insurance covering the Worksite held by Owner; and

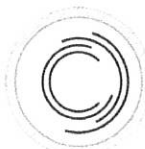
4.3.4 any other information or services requested in writing by Constructor which are required for Constructor's performance of the Work and under Owner's control.

**4.4 BUILDING PERMIT, FEES, AND APPROVALS** Except for those permits and fees related to the Work which are the responsibility of Constructor, Owner shall secure and pay for all other permits, approvals, easements, assessments, and fees required for the development, construction, use, or occupancy of permanent structures or for permanent changes in existing facilities, including the building permit.

**4.5 MECHANICS AND CONSTRUCTION LIEN INFORMATION** Within seven (7) Days after receiving Constructor's written request, Owner shall provide Constructor with the information necessary to give notice of or enforce mechanics lien rights and, where applicable, stop notices. This information shall include Owner's real property interests in the Worksite and the record legal title.

**4.6 CONTRACT DOCUMENTS** Unless otherwise specified, Owner shall provide ten (10) hard copies of the Contract Documents to Constructor without cost.

**4.6.1 ELECTRONIC DOCUMENTS** If Owner requires that Owner, Design Professional, and Constructor exchange documents and data in electronic or digital form, before any such exchange, Owner, Design Professional, and Constructor shall agree on and follow a written protocol governing all exchanges, which, at a minimum, shall specify: (a) the definition of documents and data to be accepted in electronic or digital form or to be transmitted electronically or digitally; (b) management and coordination responsibilities; (c) necessary equipment, software, and services; (d) acceptable formats, transmission methods, and verification procedures; (e) methods for maintaining version control; (f) privacy and security requirements; and (g) storage and retrieval requirements. Except as otherwise agreed to by the Parties in writing, each Party shall bear its own costs as identified in the protocol. In the absence of a written protocol, use of documents and data in electronic or digital form shall be at the sole risk of the recipient.



4.7 OWNER'S REPRESENTATIVE Owner's Representative is Keith Westengard. Owner's Representative shall be fully acquainted with the Project, and shall have authority to bind Owner in all matters requiring Owner's approval, authorization, or written notice. If Owner changes its Representative or its Representative's authority, Owner shall immediately notify Constructor in writing.

4.8 OWNER'S CUTTING AND PATCHING Cutting, patching, or altering the Work by Owner or Others shall be done with the prior written approval of Constructor, which approval shall not be unreasonably withheld.

4.9 OWNER'S RIGHT TO CLEAN UP In case of a dispute between Constructor and Others with regard to respective responsibilities for clean up at the Worksite, Owner may implement appropriate cleanup measures after two (2) Business Days' notice and allocate the cost among those responsible during the following pay period.

4.10 COST OF CORRECTING DAMAGED OR DESTROYED WORK With regard to damage or loss attributable to the acts or omissions of Owner or Others and not to Constructor, Owner shall either (a) promptly remedy the damage or loss (and assume affected warranty responsibilities), (b) accept the damage or loss, or (c) issue an Interim Directive or Change Order to remedy the damage or loss. If Constructor incurs costs or is delayed due to such loss or damage, Constructor may seek an equitable adjustment in the Contract Price or Contract Time under this Agreement.

## ARTICLE 5 SUBCONTRACTS

### 5.1 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.1.1 Promptly after executing this Agreement, Constructor shall provide Owner with a written list of the proposed Subcontractors and significant Suppliers. If Owner has a reasonable objection to any proposed Subcontractor or Supplier, Owner shall notify Constructor in writing. Failure to promptly object shall constitute acceptance.

5.1.2 If Owner has reasonably and promptly objected, Constructor shall not contract with the proposed Subcontractor or Supplier, and Constructor shall propose another acceptable Subcontractor or Supplier to Owner. An appropriate Change Order shall reflect any increase or decrease in the Contract Price or Contract Time because of the substitution.

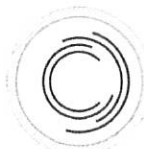
5.2 BINDING OF SUBCONTRACTORS AND SUPPLIERS Constructor agrees to bind every Subcontractor and Supplier (and require each Subcontractor to so bind its subcontractors and significant suppliers) to the Contract Document's applicable provisions to that portion of the Work.

### 5.3 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

If this Agreement is terminated, each subcontract and supply agreement shall be assigned by Constructor to Owner, subject to the prior rights of any surety, provided that: (a) this Agreement is terminated by Owner pursuant to §11.3 or §11.4; and

(b) Owner accepts such assignment after termination by notifying Constructor and Subcontractor or Constructor and Supplier in writing, and assumes all rights and obligations of Constructor pursuant to each subcontract or supply agreement.

5.3.1 If Owner accepts such an assignment, and the Work has been suspended for more than thirty (30) consecutive Days, following termination, if appropriate, Subcontractor's or Supplier's compensation shall be equitably adjusted as a result of the suspension.





## ARTICLE 6 TIME

6.1 DATE OF COMMENCEMENT The Date of Commencement is the Agreement date in ARTICLE 1 unless otherwise set forth below: The Date of Commencement shall be 7 calendar days from the date of the execution of this agreement

6.1.1 SUBSTANTIAL/FINAL COMPLETION Substantial Completion of the Work shall be achieved in TBD (TBD) Days from the Date of Commencement. Unless otherwise specified in the Certificate of Substantial Completion, Constructor shall achieve Final Completion within TBD (TBD) Days after the date of Substantial Completion. The deadlines for Substantial and Final Completion are subject to adjustments as provided for in the Contract Documents.

6.1.2 Time is of the essence with regard to the obligations of the Contract Documents.

6.1.3 Unless instructed by Owner in writing, Constructor shall not knowingly commence the Work before the effective date of Constructor's required insurance.

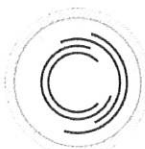
### 6.2 SCHEDULE OF THE WORK

6.2.1 Before submitting its first application for payment, Constructor shall submit to Owner a Schedule of the Work showing the dates on which Constructor plans to begin and complete various parts of the Work, including dates on which information and approvals are required from Owner. Except as otherwise directed by Owner, Constructor shall comply with the approved Schedule of the Work. Unless otherwise agreed, the Schedule of the Work shall be formatted in a detailed precedence-style critical path method that (a) provides a graphic representation of all activities and events, including float values that will affect the critical path of the Work, and (b) identifies dates that are critical to ensure timely and orderly completion of the Work. Constructor shall update the Schedule of the Work on a monthly basis or as mutually agreed by the Parties.

6.2.2 Owner may determine the sequence in which the Work shall be performed, provided it does not unreasonably interfere with the Schedule of the Work. Owner may require Constructor to make reasonable changes in the sequence at any time during the performance of the Work in order to facilitate the performance of work by Owner or Others. If Constructor consequently incurs costs or is delayed, or both, Constructor may seek an equitable adjustment in the Contract Price or Contract Time under ARTICLE 8.

### 6.3 DELAYS AND EXTENSIONS OF TIME

6.3.1 If Constructor is delayed at any time in the commencement or progress of the Work by any cause beyond the control of Constructor, Constructor shall be entitled to an equitable extension of the Contract Time. Examples of causes beyond the control of Constructor include, but are not limited to, the following: (a) acts or omissions of Owner, Design Professional, or Others; (b) changes in the Work or the sequencing of the Work ordered by Owner, or arising from decisions of Owner that impact the time of performance of the Work; (c) encountering Hazardous Materials, or concealed or unknown conditions; (d) delay authorized by Owner pending dispute resolution or suspension by Owner under §11.1; (e) transportation delays not reasonably foreseeable; (f) labor disputes not involving Constructor; (g) general labor disputes impacting the Project but not specifically related to the Worksite; (h) fire; (i) Terrorism; (j) epidemics; (k) adverse governmental actions; (l) unavoidable accidents or circumstances; (m) adverse weather conditions not reasonably anticipated, or (n) Owner's failure or inability to timely obtain all necessary permits or approvals. Constructor shall submit any requests for equitable extensions of Contract Time in accordance with ARTICLE 8.



6.3.2 In addition, if Constructor incurs additional costs as a result of a delay that is caused by items (a) through (d) immediately above, Constructor shall be entitled to an equitable adjustment in the Contract Price subject to §6.6.

6.3.3 NOTICE OF DELAYS If delays to the Work are encountered for any reason, Constructor shall provide prompt written notice to Owner of the cause of such delays after Constructor first recognizes the delay. The Parties each agree to take reasonable steps to mitigate the effect of such delays.

6.4 NOTICE OF DELAY CLAIMS If Constructor requests an equitable extension of the Contract Time or an equitable adjustment in the Contract Price as a result of a delay described in §6.3, Constructor shall give Owner written notice of the claim in accordance with §8.3. If Constructor causes delay in the completion of the Work, Owner shall be entitled to recover its additional costs subject to §. Owner shall process any such claim against Constructor in accordance with ARTICLE 8.

#### 6.5 LIQUIDATED DAMAGES

6.5.1 SUBSTANTIAL COMPLETION Liquidated damages based on Substantial Completion date  
☐ shall/ ☒ shall not apply.

6.5.2 FINAL COMPLETION Liquidated damages based on the Final Completion date ☐ shall/  
☒ shall not apply.

6.6 LIMITED MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES Except for damages mutually agreed upon by the Parties as liquidated damages in §6.5 and excluding losses covered by insurance required by the Contract Documents, the Parties agree to waive all claims against each other for any consequential damages that may arise out of or relate to this Agreement, except for those specific items of damages excluded from this waiver as mutually agreed upon by the Parties and identified below. Owner agrees to waive damages, including but not limited to Owner's loss of use of the Project, any rental expenses incurred, loss of income, profit, or financing related to the Project, as well as the loss of business, loss of financing, loss of profits not related to this Project, loss of reputation, or insolvency. Constructor agrees to waive damages, including but not limited to loss of business, loss of financing, loss of profits not related to this Project, loss of bonding capacity, loss of reputation, or insolvency. The provisions of this section shall also apply to the termination of this Agreement and shall survive such termination. The following are excluded from this mutual waiver: None.

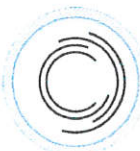
6.6.1 The Parties shall each require similar waivers in contracts with Subcontractors and Others retained for the Project.

### ARTICLE 7 PRICE

7.1 LUMP SUM Lump sum is the Contract Price of three million six thousand dollars (\$3,006,000) subject to adjustment as provided in this Agreement.

#### 7.2 ALLOWANCES

7.2.1 All allowances stated in the Contract Documents shall be included in the Contract Price. While Owner may direct the amounts of, and the particular Suppliers or Subcontractors to supply specific allowance items, if Constructor reasonably objects to a Supplier or Subcontractor, it shall not be required to contract with them. Owner shall select allowance items in a timely manner so as not to delay the Work.



7.2.2 Allowances shall include the costs of materials, supplies, and equipment delivered to the Worksite, less applicable trade discounts and including requisite taxes, unloading and handling at the Worksite, and labor and installation, unless specifically stated otherwise. Constructor's Overhead and profit for the allowances is included in the Contract Price, not in the allowances. If incurred costs are greater or less than the allowances, a Party may seek an equitable adjustment in the Contract Price or Contract Time under ARTICLE 8.

## ARTICLE 8 CHANGES

Changes in the Work that are within the general scope of this Agreement shall be accomplished, without invalidating this Agreement, by Change Order.

### 8.1 CHANGE ORDER

8.1.1 Constructor may request or Owner may order changes in the Work or the timing or sequencing of the Work that impact the Contract Price or the Contract Time. All such changes in the Work that affect Contract Time or Contract Price shall be formalized in a Change Order and processed in accordance with this article.

8.1.2 For changes in the Work, the Parties shall negotiate an appropriate adjustment to the Contract Price or the Contract Time in good faith and conclude negotiations as expeditiously as possible. Acceptance of the Change Order and any adjustment in the Contract Price or Contract Time shall not be unreasonably withheld.

8.1.3 NO OBLIGATION TO PERFORM Constructor shall not be obligated to perform changes in the Work without a Change Order or Interim Directive.

### 8.2 DETERMINATION OF COST

8.2.1 An increase or decrease in the Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:

8.2.2 unit prices set forth in this Agreement or as subsequently agreed;

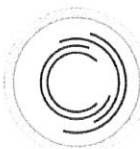
8.2.3 a mutually accepted, itemized lump sum; or

8.2.4 COST OF THE WORK Cost of the Work as defined by this §8.2.4 plus 10% for Overhead and 5% for profit. "Cost of the Work" shall include the following costs reasonably incurred to perform a change in the Work:

8.2.4.1 Labor wages directly employed by Constructor performing the Work;

8.2.4.2 Salaries of Constructor's employees when stationed at the field office to the extent necessary to complete the applicable Work, employees engaged on the road expediting the production or transportation of material and equipment, and supervisory employees from the principal or branch office as mutually agreed by the Parties in writing;

8.2.4.3 Cost of applicable employee benefits and taxes, including but not limited to, workers' compensation, unemployment compensation, social security, health, welfare, retirement, and other fringe benefits as required by law, labor agreements, or paid under Constructor's standard personnel policy, insofar as such costs are paid to employees of Constructor who are included in the Cost of the Work in §8.2.4.1 and §8.2.4.2;





8.2.4.4 Reasonable transportation, travel, and hotel expenses of Constructor's personnel incurred in connection with the Work;

8.2.4.5 Cost of all materials, supplies, and equipment incorporated in the Work, including costs of inspection and testing if not provided by Owner, transportation, storage, and handling;

8.2.4.6 Payments made by Constructor to Subcontractors for performed Work;

8.2.4.7 Cost, including transportation and maintenance of all materials, supplies, equipment, temporary facilities, and hand tools not owned by the workers that are used or consumed in the performance of the Work, less salvage value or residual value; and cost less salvage value of such items used, but not consumed that remain the property of Constructor;

8.2.4.8 Rental charges of all necessary machinery and equipment, exclusive of hand tools owned by workers, used at the Worksite, whether rented from Constructor or others, including installation, repair and replacement, dismantling, removal, maintenance, transportation, and delivery costs. Rental from unrelated third parties shall be reimbursed at actual cost. Rentals from Constructor or its affiliates, subsidiaries, or related parties shall be reimbursed at the prevailing rates in the locality of the Worksite up to eighty-five percent (85%) of the value of the piece of equipment;

8.2.4.9 Cost of the premiums for all insurance and surety bonds which Constructor is required to procure or deems necessary, and approved by Owner including any additional premium incurred as a result of any increase in the cost of the Work;

8.2.4.10 Sales, use, gross receipts, or other taxes, tariffs, or duties related to the Work for which Constructor is liable;

8.2.4.11 Permits, fees, licenses, tests, and royalties;

8.2.4.12 Losses, expenses, or damages to the extent not compensated by insurance or otherwise, and the cost of corrective work, provided that such did not arise from Constructor's negligence;

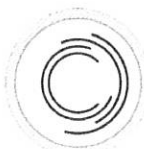
8.2.4.13 Water, power, and fuel costs necessary for the changed Work;

8.2.4.14 Cost of removal of all nonhazardous substances, debris, and waste materials;

8.2.4.15 Costs directly incurred to perform a change in the Work which are reasonably inferable from the Contract Documents for the changed Work;

8.2.4.16 DISCOUNTS All discounts for prompt payment shall accrue to Owner to the extent such payments are made directly by Owner. To the extent payments are made with funds of Constructor, all cash discounts shall accrue to Constructor. All trade discounts, rebates, and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Work;

8.2.4.17 COST REPORTING Constructor shall maintain complete and current records that comply with generally accepted accounting principles and calculate the Cost of Work. Owner shall be afforded access to Constructor's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to requested payment for Cost of the Work. Constructor shall preserve all such records for a period of three years after the final payment or longer where required by Law;





8.2.4.18 **COST AND SCHEDULE ESTIMATES** Constructor shall use reasonable skill and judgment in the preparation of a cost estimate or schedule for a change to the Work, but does not warrant or guarantee their accuracy.

8.2.4.19 Cost of the Work pursuant to §8.2.4 is determined net of savings from the change. Constructor's Overhead and profit shall be added to any net increase in Cost of the Work. No Overhead and profit shall be applied to any net decrease in the Cost of the Work that is less than ten (10) percent of the Contract Price. Overhead and profit shall be applied to any net decrease of ten (10) percent or more. Constructor shall maintain a documented, itemized accounting evidencing expenses and savings.

8.2.5 If unit prices are set forth in the Contract Documents or the Parties subsequently agree, but the character or quantity of such unit items as originally contemplated is so different in a proposed Change Order that the original unit prices will cause substantial inequity to either Party, such unit prices shall be equitably adjusted.

8.3 **CHANGES NOTICE** Except as provided in §6.3.2 and §6.4 for any claim for an increase in the Contract Price or the Contract Time, Constructor shall give Owner written notice of the claim within fourteen (14) Days after the occurrence giving rise to the claim or within fourteen (14) Days after Constructor first recognizes the condition giving rise to the claim, whichever is later. Except in an emergency, notice shall be given before proceeding with the Work. Thereafter, Constructor shall submit written documentation of its claim, including appropriate supporting documentation, within twenty-one (21) Days after giving notice, unless the Parties mutually agree upon a longer period of time. Owner shall respond in writing denying or approving Constructor's claim no later than fourteen (14) Days after receipt of Constructor's claim. Owner's failure to so respond shall be deemed a denial of the claim. Any change in the Contract Price or the Contract Time resulting from such claim shall be authorized by Change Order.

8.4 **INCIDENTAL CHANGES** Owner may direct Constructor to perform incidental changes in the Work, upon concurrence with Constructor that such changes do not involve adjustments in the Contract Price or Contract Time. Incidental changes shall be consistent with the scope and intent of the Contract Documents. Owner shall initiate an incidental change in the Work by issuing a written notice.

## **ARTICLE 9 PAYMENT**

9.1 **SCHEDULE OF VALUES** Within twenty-one (21) Days from the date of execution of this Agreement, Constructor shall prepare and submit to Owner, a schedule of values apportioned to the various divisions or phases of the Work. Each line item contained in the schedule of values shall be assigned a value such that the total of all items shall equal the Contract Price.

### **9.2 PROGRESS PAYMENTS**

9.2.1 **APPLICATIONS** Constructor shall submit to Owner, and if directed, Design Professional a monthly application for payment no later than the last Day of the calendar month for the preceding calendar month. Constructor's applications for payment shall be itemized and supported by Constructor's schedule of values based on a percentage of completion and shall include any other substantiating data as required by this Agreement. Applications for payment shall include payment requests on account of properly authorized Change Orders or Interim Directives. Owner shall pay the amount due on a payment application, no later than fifteen (15) Days after accepting such application. Owner may deduct from any progress payment amounts that may be retained pursuant to §9.2.4.

9.2.2 **STORED MATERIALS AND EQUIPMENT** Unless otherwise provided in the Contract Documents, applications for payment may include materials and equipment not yet incorporated into



the Work but delivered to and suitably stored onsite or offsite including applicable insurance, storage, and costs incurred transporting the materials to an offsite storage facility. Approval of payment applications for stored materials and equipment stored offsite shall be conditioned on a submission by Constructor of bills of sale and proof of required insurance, or such other documentation satisfactory to Owner to establish the proper valuation of the stored materials and equipment, Owner's title to such materials and equipment, and to otherwise protect Owner's interests therein, including transportation to the Worksite.

### 9.2.3 LIEN WAIVERS AND LIENS

9.2.3.1 PARTIAL LIEN WAIVERS AND AFFIDAVITS If required by Owner as a prerequisite for payment, Constructor shall provide a partial lien and claim waiver in the amount of the application for payment and affidavits from its Subcontractors and Suppliers for the completed Work. Such waivers shall be conditional upon payment. Constructor shall not be required to sign an unconditional waiver of lien or claim, before receiving payment or in an amount in excess of what it has been paid.

9.2.3.2 REMOVING LIENS If Owner has made payments in the time required by this ARTICLE 9, Constructor shall, within thirty (30) Days after filing, remove any liens filed against the premises or public improvement fund by any party or parties performing labor or services or supplying materials in connection with the Work. If Constructor fails to take such action on a lien, Owner may cause the lien to be removed at Constructor's expense, including bond costs and reasonable attorneys' fees. This subsection shall not apply if there is a dispute pursuant to ARTICLE 12 relating to the subject matter of the lien.

9.2.4 RETAINAGE From each progress payment made before Substantial Completion, Owner may retain Zero percent (0%) of the amount otherwise due after deduction of any amounts as provided in §9.3, provided such percentage doesn't exceed the Law. If Owner chooses to use this retainage provision:

9.3 ADJUSTMENT OF CONSTRUCTOR'S PAYMENT APPLICATION Owner may adjust or reject a payment application or nullify a previously approved payment application, in whole or in part, as may reasonably be necessary to protect Owner from loss or damage based upon the following, to the extent that Constructor is responsible under this Agreement:

9.3.1 Constructor's repeated failure to perform the Work as required by the Contract Documents;

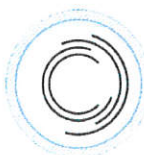
9.3.2 Except as accepted by the insurer providing Builder's Risk or other property insurance covering the project, loss or damage arising out of or relating to this Agreement and caused by Constructor to Owner or to others to whom Owner may be liable;

9.3.3 Constructor's failure to properly pay either Subcontractors or Suppliers following receipt of payment from Owner for that portion of the Work or for supplies, provided that Owner is making payments to Constructor in accordance with this Agreement;

9.3.4 rejected or Defective Work not corrected in a timely fashion;

9.3.5 reasonable evidence of delay in performance of the Work such that the Work will not be completed within the Contract Time;

9.3.6 reasonable evidence demonstrating that the unpaid balance of the Contract Price is insufficient to fund the cost to complete the Work; and



9.3.7 uninsured third-party claims involving Constructor, or reasonable evidence demonstrating that third-party claims are likely to be filed unless and until Constructor furnishes Owner with adequate security in the form of a surety bond, letter of credit, or other collateral or commitment sufficient to discharge such claims if established.

No later than seven (7) Days after receipt of an application for payment, Owner shall give written notice to Constructor, at the time of disapproving or nullifying all or part of an application for payment, stating its specific reasons for such disapproval or nullification, and the remedial actions to be taken by Constructor in order to receive payment. When the above reasons for disapproving or nullifying an application for payment are removed, payment will be promptly made for the amount previously withheld.

9.4 ACCEPTANCE OF WORK Neither Owner's payment of progress payments nor its partial or full use or occupancy of the Project constitutes acceptance of Work not complying with the Contract Documents.

9.5 PAYMENT DELAY If for any reason not the fault of Constructor, Constructor does not receive a progress payment from Owner within seven (7) Days after the time such payment is due, then Constructor, upon giving seven (7) Days' written notice to Owner, and without prejudice to and in addition to any other legal remedies, may stop Work until payment of the full amount owing to Constructor has been received, including interest for late payment. If Constructor incurs costs or is delayed resulting from shutdown, delay, and start-up, Constructor may seek an equitable adjustment in the Contract Price or Contract Time under ARTICLE 8.

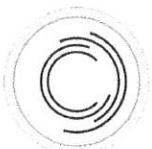
#### 9.6 SUBSTANTIAL COMPLETION

9.6.1 Constructor shall notify Owner when it considers Substantial Completion of the Work or a designated portion to have been achieved. Owner, with the assistance of its Design Professional, shall promptly conduct an inspection to determine whether the Work or designated portion can be occupied or used for its intended use by Owner without excessive interference in completing any remaining unfinished Work. If Owner determines that the Work or designated portion has not reached Substantial Completion, Owner shall promptly compile a list of items to be completed or corrected so Owner may occupy or use the Work or designated portion for its intended use. Constructor shall promptly complete all items on the list.

9.6.2 When Substantial Completion of the Work or a designated portion is achieved, Constructor shall prepare a Certificate of Substantial Completion establishing the date of Substantial Completion and the respective responsibilities of each Party for interim items such as security, maintenance, utilities, insurance, and damage to the Work. In the absence of a clear delineation of responsibilities, Owner shall assume all responsibilities for items such as security, maintenance, utilities, insurance, and damage to the Work. The Certificate of Substantial Completion shall also list any items to be completed or corrected, and establish the time for their completion or correction. The Certificate of Substantial Completion shall be submitted by Constructor to Owner and, if directed, to Design Professional for written acceptance of responsibilities assigned in the Certificate of Substantial Completion.

9.6.3 Unless otherwise provided in the Certificate of Substantial Completion, warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or a designated portion.

9.6.4 Upon Owner's written acceptance of the Certificate of Substantial Completion, Owner shall pay to Constructor the remaining retainage held by Owner for the Work described in the Certificate of Substantial Completion, less a sum equal to one hundred fifty percent (150%) of the estimated cost of completing or correcting remaining items on that part of the Work, as agreed to by the Parties as





necessary to achieve Final Completion. Uncompleted items shall be completed by Constructor in a mutually agreed upon timeframe. Owner shall pay Constructor monthly the amount retained for unfinished items as each item is completed.

## 9.7 PARTIAL OCCUPANCY OR USE

9.7.1 Owner may occupy or use completed or partially completed portions of the Work when (a) the portion of the Work is designated in a Certificate of Substantial Completion, (b) appropriate insurer(s) consent to the occupancy or use, and (c) appropriate public authorities authorize the occupancy or use. Such partial occupancy or use shall constitute Substantial Completion of that portion of the Work.

## 9.8 FINAL COMPLETION AND FINAL PAYMENT

9.8.1 Upon notification from Constructor that the Work is complete and ready for final inspection and acceptance, Owner with the assistance of its Design Professional shall promptly conduct an inspection to determine if the Work has been completed and is acceptable under the Contract Documents.

9.8.2 When Final Completion has been achieved, Constructor shall prepare for Owner's written acceptance a final application for payment stating that to the best of Constructor's knowledge, and based on Owner's inspections, the Work has reached Final Completion in accordance with the Contract Documents.

9.8.3 Final payment of the balance of the Contract Price shall be made to Constructor within twenty (20) Days after Constructor has submitted a complete and accurate application for final payment, including submissions required under §9.8.4, and a Certificate of Final Completion has been executed by the Parties.

9.8.4 Final payment is due upon Constructor's submission to Owner of the following:

9.8.4.1 An affidavit declaring any indebtedness connected with the Work to have been paid, satisfied, or to be paid with the proceeds of final payment, so as not to encumber Owner's property;

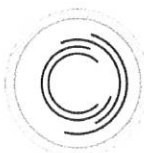
9.8.4.2 As-built drawings, manuals, copies of warranties, and all other close-out documents required by the Contract Documents;

9.8.4.3 Release of any liens, conditioned on final payment being received;

9.8.4.4 Consent of any surety; and

9.8.4.5 Any outstanding known and unreported accidents or injuries experienced by Constructor or its Subcontractors at the Worksite.

9.8.5 If, after Substantial Completion of the Work, the Final Completion of a portion of the Work is materially delayed through no fault of Constructor, Owner shall pay the balance due for any portion of the Work fully completed and accepted. If the remaining contract balance for Work not fully completed and accepted is less than the retained amount before payment, Constructor shall submit to Owner, and if directed, Design Professional, the written consent of any surety to payment of the balance due for portions of the Work that are fully completed and accepted. Such payment shall not constitute a waiver of claims, but otherwise shall be governed by these final payment provisions.



9.8.6 OWNER'S CLAIMS RESERVATION Owner's claims not reserved in writing with final payment are waived except for claims relating to liens or similar encumbrances, warranties, Defective Work, and latent defects.

9.8.7 CONSTRUCTOR ACCEPTANCE OF FINAL PAYMENT Unless Constructor provides written identification of unsettled claims with an application for final payment, its acceptance of final payment constitutes a waiver of such claims.

9.9 LATE PAYMENT Payments due but unpaid shall bear interest from the date payment is due at the statutory rate at the place of the Project.

## ARTICLE 10 INDEMNITY, INSURANCE, AND BONDS

### 10.1 INDEMNITY

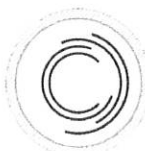
10.1.1 To the fullest extent permitted by law, Constructor shall indemnify and hold harmless Owner, Owner's officers, directors, members, consultants, agents, and employees, Design Professional, and Others (the Indemnitees) from all claims for bodily injury and property damage, other than to the Work itself and other property insured, including reasonable attorneys' fees, costs and expenses, that may arise from the performance of the Work, but only to the extent caused by the negligent or intentionally wrongful acts or omissions of Constructor, Subcontractors, Suppliers, Subsubcontractors, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable. Constructor shall be entitled to reimbursement of any defense costs paid above Constructor's percentage of liability for the underlying claim to the extent provided for by §10.1.2.

10.1.2 To the fullest extent permitted by law, Owner shall indemnify and hold harmless Constructor, its officers, directors, members, consultants, agents, and employees, Subcontractors, Suppliers, or anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable from all claims for bodily injury and property damage, other than property insured, including reasonable attorneys' fees, costs, and expenses, that may arise from the performance of work by Owner, Design Professional, or Others, but only to the extent caused by the negligent or intentionally wrongful acts or omissions of Owner, Design Professional, or Others. Owner shall be entitled to reimbursement of any defense costs paid above Owner's percentage of liability for the underlying claim to the extent provided for by §10.1.1.

10.1.3 NO LIMITATION ON LIABILITY In any and all claims against the Indemnitees by any employee of Constructor, anyone directly or indirectly employed by Constructor or anyone for whose acts Constructor may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Constructor under workers' compensation acts, disability benefit acts, or other employment benefit acts.

### 10.2 INSURANCE

10.2.1 Before starting the Work and as a condition precedent to payment, Constructor shall procure and maintain in force Workers' Compensation Insurance, Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance (CGL). The CGL policy shall include coverage for liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, contractual liability, and broad form property damage. Constructor shall maintain completed operations liability insurance for one year after Substantial Completion, or as required by the Contract Documents, whichever is longer.



Constructor's Employers' Liability, Business Automobile Liability, and CGL policies, shall be written with at least the following limits of liability:

10.2.1.1 Employers' Liability Insurance

- (a) \$1,000,000 bodily injury by accident per accident.
- (b) \$1,000,000 bodily injury by disease policy limit.
- (c) \$1,000,000 bodily injury by disease per employee.

10.2.1.2 Business Automobile Liability Insurance \$1,000,000 per accident.

10.2.1.3 Commercial General Liability Insurance

- (a) \$1,000,000 per occurrence.
- (b) \$2,000,000 general aggregate.
- (c) \$1,000,000 products/completed operations aggregate.
- (d) \$1,000,000 personal and advertising injury limit.

10.2.2 Employers' Liability, Business Automobile Liability, and CGL coverage required under §10.2.1 may be provided by a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella liability policies.

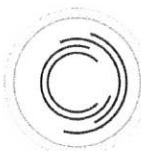
10.2.3 Constructor shall maintain in effect all insurance coverage required under §10.2.1 with insurance companies lawfully authorized to do business in the jurisdiction in which the Project is located. If Constructor fails to obtain or maintain any insurance coverage required under this Agreement, Owner may purchase such coverage and charge the expense to Constructor, or terminate this Agreement.

10.2.4 To the extent commercially available to Constructor from its current insurance company, insurance policies required under §10.2.1 shall contain a provision that the insurance company or its designee must give Owner written notice transmitted in paper or electronic format: (a) 30 Days before coverage is nonrenewed by the insurance company and (b) within 10 Business Days after cancelation of coverage by the insurance company. Before commencing the Work and upon renewal or replacement of the insurance policies, Constructor shall furnish Owner with certificates of insurance until one year after Substantial Completion or longer if required by the Contract Documents. In addition, if any insurance policy required under §10.2.1 is not to be immediately replaced without lapse in coverage when it expires, exhausts its limits, or is to be cancelled, Constructor shall give Owner prompt written notice upon actual or constructive knowledge of such condition.

### 10.3 PROPERTY INSURANCE

10.3.1 Owner shall obtain and maintain a Builder's Risk Policy upon the entire Project for the full cost of replacement at the time of loss, including existing structures. This insurance shall also: (a) name Constructor, Subcontractors, Subsubcontractors, Suppliers, and Design Professional as insureds; (b) be written in such form as to cover all risks of physical loss except those specifically excluded by the policy; and (c) insure at least against and not exclude:

10.3.1.1 the perils of fire, lightning, explosion, windstorm, hail, smoke, aircraft (except aircraft, including helicopter, operated by or on behalf of the Contractor) and vehicles, riot and civil commotion, theft, vandalism, malicious mischief, debris removal, flood, earthquake, earth movement, water damage, wind damage, testing if applicable, collapse however caused;



10.3.1.2 damage resulting from defective design, workmanship, or material;

10.3.1.3 coverage extension for damage to existing buildings, plant, or other structures at the Worksite, when the Project is contained within or attached to such existing buildings, plant, or structures. Coverage shall be to the extent loss or damage arises out of Constructor's activities or operations at the Project;

10.3.1.4 equipment breakdown, including mechanical breakdown, electrical injury to electrical devices, explosion of steam equipment, and damage to steam equipment caused by a condition within the equipment;

10.3.1.5 testing coverage for running newly installed machinery and equipment at or beyond the specified limits of their capacity to determine whether they are fit for their intended use; and

10.3.1.6 physical loss resulting from Terrorism.

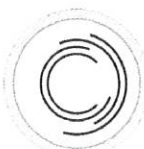
10.3.2 The Party that is the primary cause of a Builder's Risk Policy claim shall be responsible for any deductible amounts or coinsurance payments. If no Party is the primary cause of a claim, then the Party obtaining and maintaining the Builder's Risk Policy pursuant to §10.3.1 shall be responsible for the deductible amounts or coinsurance payments. This policy shall provide for a waiver of subrogation. This insurance shall remain in effect until final payment has been made or until no person or entity other than Owner has an insurable interest in the property to be covered by this insurance, whichever is sooner. Partial occupancy or use of the Work shall not commence until Constructor has secured the consent of the insurance company or companies providing the coverage required in this subsection. Before commencing the Work, Constructor shall provide a copy of the property policy or policies obtained in compliance with §10.3.1

10.3.3 The Parties each waive all rights against each other and their respective employees, agents, contractors, subcontractors, suppliers, subsubcontractors, and design professionals for damages caused by risks covered by the property insurance except such rights as they may have to the proceeds of the insurance.

10.3.4 To the extent of the limits of Constructor's CGL specified in §10.2.1, Constructor shall indemnify and hold harmless Owner against any and all liability, claims, demands, damages, losses, and expenses, including attorneys' fees, in connection with or arising out of any damage or alleged damage to any of Owner's existing adjacent property that may arise from the performance of the Work, to the extent caused by the negligent or intentionally wrongful acts or omissions of Constructor, Subcontractor, Supplier, Subsubcontractor, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.

10.3.5 RISK OF LOSS Except to the extent a loss is covered by applicable insurance, risk of loss from damage to the Work shall be upon the Party obtaining and maintaining the Builder's Risk Policy pursuant to section 10.3.1 until the Date of Final Completion.

10.3.6 POLLUTION LIABILITY INSURANCE Constructor ☐is/ ☒is not required to maintain pollution liability insurance. Unless indicated affirmatively, the obligation to procure such insurance is not triggered.



10.3.6.1 If applicable: in the following amounts: N/A per occurrence, and shall apply for N/A year(s) after Final Completion. The policy shall cover Constructor's liability during construction, removal, storage, encapsulation, transport, and disposal of hazardous waste and contaminated soil, and asbestos abatement. The policy shall include coverage for on-site and off-site bodily injury and loss of damage to, or loss of use of property, directly or indirectly arising out of the discharge, dispersal, release, or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gas, waste materials, or other irritants, contaminants, or pollutants into or upon the land, the atmosphere or any water body, whether it be gradual or sudden and accidental. The policy shall not have exclusions for mold or asbestos.

10.4 ADDITIONAL GENERAL LIABILITY COVERAGE Owner ☐shall/ ☒shall not require Constructor to purchase and maintain additional liability coverage.

10.5 ROYALTIES, PATENTS, AND COPYRIGHTS Constructor shall pay all royalties and license fees which may be due on the inclusion of any patented or copyrighted materials, methods, or systems selected by Constructor and incorporated in the Work. Constructor shall defend, indemnify, and hold Owner harmless from all suits or claims for infringement of any patent rights or copyrights arising out of such selection. Owner agrees to defend, indemnify, and hold Constructor harmless from any suits or claims of infringement of any patent rights or copyrights arising out of any patented or copyrighted materials, methods, or systems specified by Owner or Design Professional.

10.6 BONDS Performance and Payments bonds ☐are/ ☒are not required. Such bonds shall be issued by a surety admitted in the state in which the Project is located and must be acceptable to Owner. Owner's acceptance shall not be withheld without reasonable cause. The penal sum of the bonds shall each be one hundred percent (100%) of the original Contract Price. Constructor shall endeavor to keep its surety advised of changes potentially impacting the Contract Time and Contract Price, though Constructor shall require that its surety waives any requirement to be notified of any alteration or extension of time.

10.7 Intentionally Omitted

## ARTICLE 11 SUSPENSION, NOTICE TO CURE, AND TERMINATION

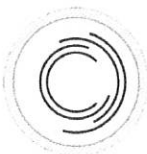
### 11.1 SUSPENSION BY OWNER FOR CONVENIENCE

11.1.1 OWNER SUSPENSION Should Owner order Constructor in writing to suspend, delay, or interrupt the performance of the Work for the convenience of Owner and not due to any act or omission of Constructor or any person or entity for whose acts or omissions Constructor may be liable, then Constructor shall immediately suspend, delay, or interrupt that portion of the Work for the time period ordered by Owner.

11.1.2 Any action taken by Owner that is permitted by any other provision of the Contract Documents and that results in a suspension of part or all of the Work does not constitute a suspension of Work under this section.

11.2 NOTICE TO CURE A DEFAULT If Constructor persistently fails to supply enough qualified workers, proper materials, or equipment to maintain the approved Schedule of the Work, or fails to make prompt payment to its workers, Subcontractors, or Suppliers, disregards a Law or orders of any public authority having jurisdiction, or is otherwise guilty of a material breach of a provision of this Agreement, Constructor may be deemed in default.

11.2.1 After receiving Owner's written notice, if Constructor fails within seven (7) Days after receipt of written notice from Owner to commence and continue satisfactory





correction of such default with diligence and promptness, then Owner shall give Constructor a second notice to correct the default within three (3) Business Days after receipt. The second notice to Constructor, and if applicable, the surety, may include, that Owner intends to terminate this Agreement for default absent appropriate corrective action.

11.2.2 If Constructor fails to promptly commence and continue satisfactory correction of the default following receipt of such second notice, Owner without prejudice to any other rights or remedies may: (a) take possession of the Worksite; (b) complete the Work utilizing reasonable means; (c) withhold payment due to Constructor; and (d) as Owner deems necessary, supply workers and materials, equipment, and other facilities for the satisfactory correction of the default, and charge Constructor the costs and expenses, including reasonable Overhead, profit, and attorneys' fees.

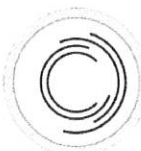
11.2.3 In the event of an emergency affecting the safety of persons or property, Owner may immediately commence and continue satisfactory correction of such default without first giving written notice to Constructor, but shall give Constructor prompt written notice.

### 11.3 OWNER'S RIGHT TO TERMINATE FOR DEFAULT

11.3.1 **TERMINATION BY OWNER FOR DEFAULT** Upon expiration of the second notice period to cure pursuant to §11.2 and absent appropriate corrective action, Owner may terminate this Agreement by written notice. Termination for default is in addition to any other remedies available to Owner under §11.2. If Owner's costs arising out of Constructor's failure to cure, including the costs of completing the Work and reasonable attorneys' fees, exceed the unpaid Contract Price, Constructor shall be liable to Owner for such excess costs. If Owner's costs are less than the unpaid Contract Price, Owner shall pay the difference to Constructor. If Owner exercises its rights under this section, upon the request of Constructor, Owner shall furnish to Constructor a detailed accounting of the costs incurred by Owner.

11.3.2 **USE OF CONSTRUCTOR'S MATERIALS, SUPPLIES, AND EQUIPMENT** If Owner or Others perform work under §11.3, Owner shall have the right to take and use any materials and supplies for which Owner has paid and located at the Worksite for the purpose of completing any remaining Work. Owner and others performing work under §11.3 shall also have the right to use construction tools and equipment located on the Worksite and belonging to the Constructor or Subsubcontractors for the purpose of completing the remaining Work, but only after Constructor's written consent. If Owner uses Constructor's construction tools and equipment in accordance with this subsection, then Owner shall indemnify and hold harmless Constructor and applicable Subcontractors and the agents, officers, directors, and employees of each of them, from and against all claims, damages, losses, costs, and expenses, including but not limited to reasonable attorneys' fees, costs, and expenses incurred in connection with Owner's use of Constructor's or applicable subcontractor's construction tools and equipment. Immediately upon completion of the Work, any remaining materials, supplies, or equipment not consumed or incorporated in the Work shall be returned to Constructor in substantially the same condition as when they were taken, reasonable wear and tear excepted.

11.3.3 If Constructor files a petition under the Bankruptcy Code, this Agreement shall terminate if: (a) Constructor or Constructor's trustee rejects the Agreement; (b) a default occurred and Constructor is unable to give adequate assurance of required performance; or (c) Constructor is otherwise unable to comply with the requirements for assuming this Agreement under the applicable provisions of the Bankruptcy Code.



11.3.4 Owner shall make reasonable efforts to mitigate damages arising from Constructor default, and shall promptly invoice Constructor for all amounts due pursuant to §11.2 and §11.3.

#### 11.4 TERMINATION BY OWNER FOR CONVENIENCE

11.4.1 Upon Constructor's receipt of Owner's written notice from Owner, Owner may, without cause, terminate this Agreement. Constructor shall immediately stop the Work, follow Owner's instructions regarding shutdown and termination procedures, and strive to minimize any further costs.

11.4.2 If Owner terminates this Agreement for convenience, Constructor shall be paid: (a) for the Work performed to date including Overhead and profit; (b) for all demobilization costs and costs incurred resulting from termination, but not including Overhead or profit on Work not performed; (c) reasonable attorneys' fees and costs related to termination; and (d) a premium as follows: Ten percent (10%) of the Remaining Constructors estimated fee.

11.4.3 If Owner terminates this Agreement, Constructor shall:

11.4.3.1 execute and deliver to Owner all papers and take all action required to assign, transfer, and vest in Owner the rights of Constructor to all materials, supplies, and equipment for which payment has been or will be made in accordance with the Contract Documents and all subcontracts, orders, and commitments which have been made in accordance with the Contract Documents;

11.4.3.2 exert reasonable effort to reduce to a minimum Owner's liability for subcontracts, orders, and commitments that have not been fulfilled at the time of the termination;

11.4.3.3 cancel any subcontracts, orders, and commitments as Owner directs; and

11.4.3.4 sell at prices approved by Owner any materials, supplies, and equipment as Owner directs, with all proceeds paid or credited to Owner.

#### 11.5 CONSTRUCTOR'S RIGHT TO TERMINATE

11.5.1 Seven (7) Days' after Owner's receipt of written notice from Constructor, Constructor may terminate this Agreement if the Work has been stopped for a thirty (30) Day period through no fault of Constructor for any of the following reasons:

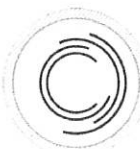
- (a) under court order or order of other governmental authorities having jurisdiction;
- (b) as a result of the declaration of a national emergency or other governmental act during which, through no act or fault of Constructor, materials are not available; or
- (c) suspension by Owner for convenience pursuant to §11.1.

11.5.2 In addition, upon seven (7) Days' written notice to Owner and an opportunity to cure within three (3) Days, Constructor may terminate this Agreement if Owner:

11.5.2.1 fails to furnish reasonable evidence pursuant to §4.2 that sufficient funds are available and committed for Project financing; or

11.5.2.2 assigns this Agreement over Constructor's reasonable objection; or

11.5.2.3 fails to pay Constructor in accordance with this Agreement and Constructor has stopped Work in compliance with §9.5; or



11.5.2.4 otherwise materially breaches this Agreement.

11.5.3 Upon termination by Constructor in accordance with §11.5.2, Constructor is entitled to recover from Owner payment for all Work executed and for any proven loss, cost, or expense in connection with the Work, including all demobilization costs plus reasonable Overhead and profit on Work not performed.

11.6 OBLIGATIONS ARISING BEFORE TERMINATION Even after termination, the provisions of this Agreement still apply to any Work performed, payments made, events occurring, costs charged or incurred, or obligations arising before the termination date.

## ARTICLE 12 DISPUTE MITIGATION AND RESOLUTION

12.1 WORK CONTINUANCE AND PAYMENT Constructor shall continue the Work and maintain the Schedule of the Work during any dispute mitigation or resolution procedure. Notwithstanding the foregoing, this does not require Constructor to any changed work that is not agreed to in a duly executed Change Order. If Constructor continues to perform, Owner shall continue to make payments in accordance with this Agreement.

12.2 DIRECT DISCUSSIONS If the Parties cannot reach resolution on a matter relating to or arising out of this Agreement, the Parties shall endeavor to reach resolution through good faith direct discussions between the Parties' representatives, who shall possess the necessary authority to resolve such matter and who shall record the date of first discussions. If the Parties' representatives are not able to resolve such matter within five (5) Business Days from the date of first discussion, the Parties' representatives shall immediately inform senior executives of the Parties in writing that a resolution could not be reached. Upon receipt of such notice, the senior executives of the Parties shall meet within five (5) Business Days to endeavor to reach resolution. If the dispute remains unresolved after fifteen (15) Days from the date of first discussion, the Parties shall submit such matter to the dispute mitigation and dispute resolution procedures selected below.

### 12.2.1 Intentionally Omitted

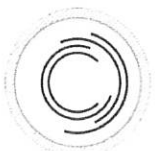
12.3 MEDIATION If direct discussions pursuant to §12.2 do not result in resolution of the matter and no dispute mitigation procedure is selected under §1.1.1, the Parties shall endeavor to resolve the matter by mediation. The mediation shall be convened within thirty (30) Business Days of the matter first being discussed and shall conclude within forty-five (45) Business Days of the matter first being discussed. Either Party may terminate the mediation at any time after the first session by written notice to the non-terminating Party and mediator. The costs of the mediation shall be shared equally by the Parties. The Parties choose mediation through:

- ☒ the current Construction Industry Mediation Rules of the American Arbitration Association (AAA), and administered by AAA.
- ☐ the current Mediation Guidelines of JAMS and administered by JAMS.
- ☐ the current rules and administration by [\_\_\_\_\_].

If no box is checked the default is AAA rules and administration.

12.4 BINDING DISPUTE RESOLUTION If the matter is unresolved after submission of the matter to a mitigation procedure or to mediation, the Parties shall submit the matter to the binding dispute resolution procedure selected below:

### 12.4.1 LITIGATION



☒ Litigation in either the state or federal court having jurisdiction of the matter in the location of the Project.

**WAIVER OF JURY TRIAL** THE PARTIES HEREBY UNCONDITIONALLY WAIVE THEIR RIGHT TO A JURY TRIAL OF ANY AND ALL CLAIMS OR CAUSES OF ACTION ARISING FROM OR RELATING TO THIS AGREEMENT AND/OR THEIR RELATIONSHIP. THE PARTIES ACKNOWLEDGE THAT THEY OTHERWISE HAVE A RIGHT TO HAVE THEIR DISPUTE HEARD BY A JURY, THAT THEY HAVE HAD AN OPPORTUNITY TO CONSULT WITH INDEPENDENT COUNSEL, AND THAT THIS JURY WAIVER HAS BEEN ENTERED INTO KNOWINGLY AND VOLUNTARILY BY ALL PARTIES TO THIS AGREEMENT.

If not indicated, then litigation is the default and not arbitration.

12.4.2 **COSTS** The costs of any binding dispute resolution procedures and reasonable attorneys' fees shall be borne by the non-prevailing Party, as determined by the adjudicator of the dispute.

12.4.3 **VENUE** The Project location shall serve as the venue.

12.5 **MULTIPARTY PROCEEDING** All parties necessary to resolve a matter agree to be parties to the same dispute resolution proceeding, if possible. Appropriate provisions shall be included in all other contracts relating to the Work to provide for the joinder or consolidation of such dispute resolution procedures.

12.6 **LIEN RIGHTS** Nothing in this article shall limit any rights or remedies not expressly waived by Constructor that Constructor may have under lien laws.

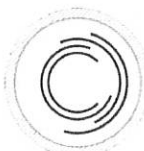
## **ARTICLE 13 MISCELLANEOUS**

13.1 **EXTENT OF AGREEMENT** Except as expressly provided, this Agreement is for the exclusive benefit of the Parties, and not for the benefit of any third party. This Agreement represents the entire and integrated agreement between the Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral.

13.2 **ASSIGNMENT** Except as to the assignment of proceeds, the Parties shall not assign their interest in this Agreement without the written consent of the other. The terms and conditions of this Agreement shall be binding upon both Parties, their partners, successors, assigns, and legal representatives. Neither Party shall assign the Agreement as a whole without written consent of the other except that Owner may assign the Agreement to a wholly owned subsidiary of Owner when Owner has fully indemnified Constructor or to an institutional lender providing construction financing for the Project as long as the assignment is no less favorable to Constructor than this Agreement. If such assignment occurs, Constructor shall execute any consent reasonably required. In such event, the wholly owned subsidiary or lender shall assume Owner's rights and obligations under the Contract Documents. If either Party attempts to make such an assignment, that Party shall nevertheless remain legally responsible for all obligations under this Agreement, unless otherwise agreed by the other Party.

13.3 **GOVERNING LAW** The law in effect at the location of the Project shall govern this Agreement.

13.4 **SEVERABILITY** The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.



13.5 NOTICE Unless changed in writing, a Party's address indicated in Article 1 shall be used when delivering notice to a physical address. Except for Agreement termination and as otherwise specified in the Contract Documents, notice is effective upon transmission by any effective means, including U.S. postal service and overnight delivery service.

13.6 NO WAIVER OF PERFORMANCE Either Party's failure to insist upon any, in any one or more instances, on the performance of any of the terms, covenants, or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition, or right with respect to further performance or any other term, covenant, condition, or right.

13.7 TITLES The titles given to the articles are for ease of reference only and shall not be relied upon or cited for any other purpose.

13.8 JOINT DRAFTING The Parties expressly agree that this Agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms before execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

13.9 LABOR RELATIONS Owner acknowledges that Constructor is a merit shop contractor and may utilize both signatory and non-signatory companies in the performance of the Work, in Constructors sole discretion.

## ARTICLE 14 CONTRACT DOCUMENTS

### 14.1 EXISTING CONTRACT DOCUMENTS

14.1.1 The Contract Documents in existence at the time of execution of this Agreement are as follows:

- (a) Drawings: N/A
- (b) Specifications: N/A
- (c) Addenda: N/A
- (d) Owner Provided information: N/A
- (e) Other: N/A

### 14.2 INTERPRETATION OF CONTRACT DOCUMENTS

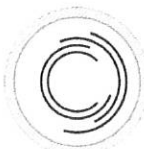
14.2.1 The drawings and specifications are complementary. If Work is shown only on one but not on the other, Constructor shall perform the Work as though fully described on both.

14.2.2 In case of conflicts between the drawings and specifications, the specifications shall govern. In any case of omissions or errors in figures, drawings, or specifications, Constructor shall immediately submit the matter to Owner for clarification. Subject to an equitable adjustment in Contract Time or Contract Price pursuant to ARTICLE 8, or a dispute mitigation and resolution, Owner's clarifications are final and binding.

14.2.3 Where figures are given, they shall be preferred to scaled dimensions.

14.2.4 Unless otherwise specifically defined in this Agreement, any terms that have well-known technical or trade meanings shall be interpreted in accordance with their well-known meanings.

14.3 ORDER OF PRECEDENCE In case of any inconsistency, conflict, or ambiguity among the Contract Documents, the documents shall govern in the following order: (a) Change Orders and written





amendments to this Agreement; (b) this Agreement; (c) subject to §14.2.2 the drawings (large scale governing over small scale), specifications, and addenda issued and acknowledged before Agreement execution or signed by both Parties; (d) information furnished by Owner pursuant to §3.13.4 or designated as a Contract Document in §14.1; (e) other Contract Documents listed in this Agreement. Among categories of documents having the same order of precedence, the term or provision that includes the latest date shall control.

OWNER: Lander County

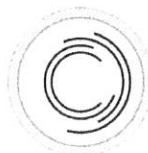
BY: \_\_\_\_\_ NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_

CONSTRUCTOR: United Construction Company

BY: \_\_\_\_\_ NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_

END OF DOCUMENT.

DRAFT



LANDER COUNTY COMMISSIONERS MEETING  
10/11/2018

Agenda Item Number \_\_6\_\_

***THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:***

Discussion and possible action regarding Question 3 on the upcoming 2018 ballot, and all other matters properly related thereto.

Public Comment:

Background:

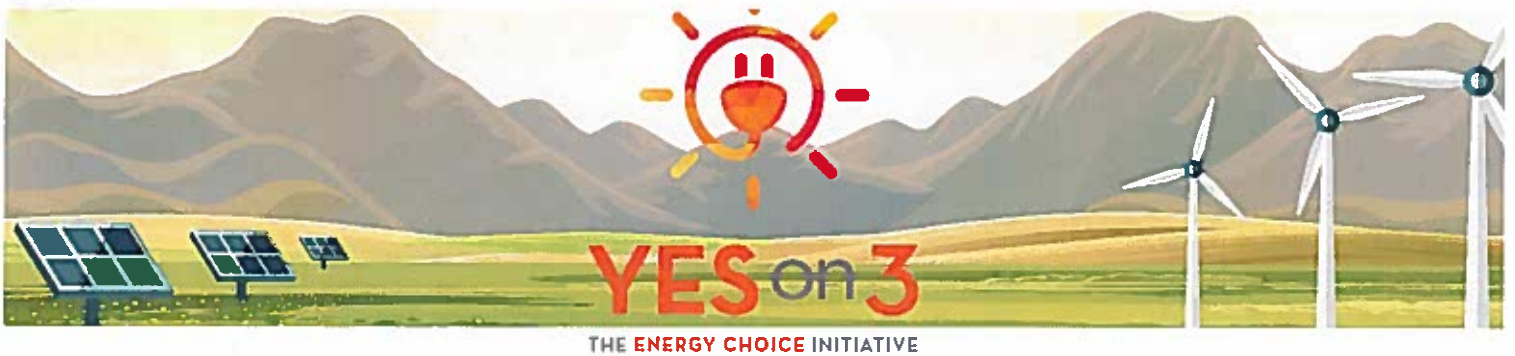
Recommended Action:

The following links and/or pages are support for agenda  
Item 8

<https://www.nvsos.gov/sos/home/showdocument?id=4089> - Referendum Language

<https://www.nvsos.gov/sos/home/showdocument?id=4420> – Fiscal Impact Statement



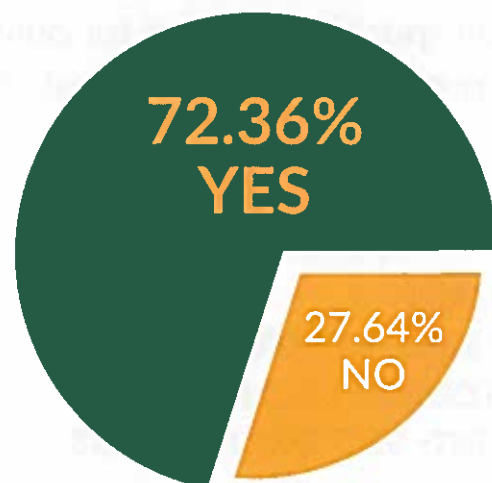


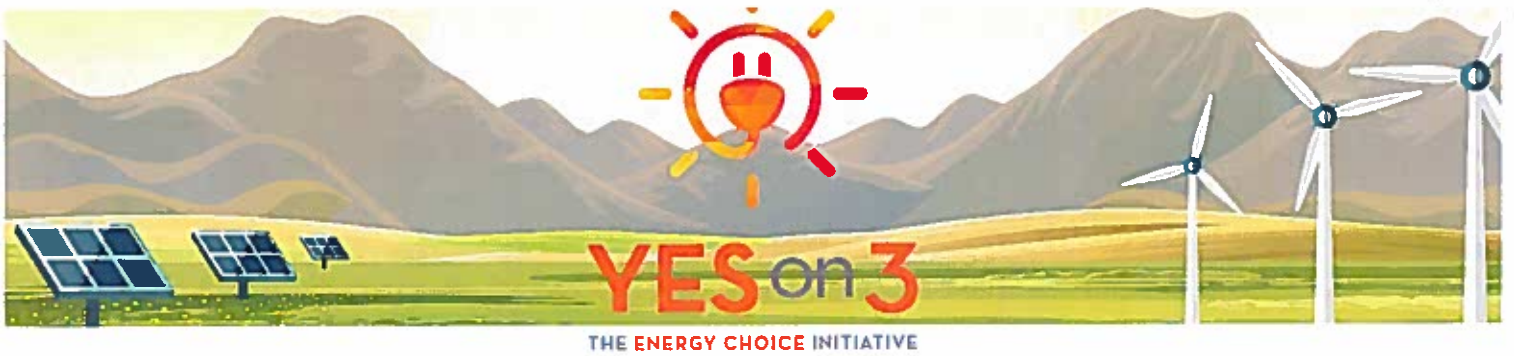
## NEVADANS FOR ENERGY CHOICE

Approval of the Energy Choice Initiative, otherwise known as Question 3, in 2018 would add a new section to the Nevada Constitution establishing that every customer has the right to choose the provider of its electric utility service, including but not limited to, selecting providers from a competitive retail electric market, or by producing electricity for themselves or in association with others, and shall not be forced to purchase energy from one provider. The proposed amendment does not by itself create an open and competitive retail electric market, but rather requires the Legislature to provide by law for such a market by July 1, 2023.

**BALLOT LANGUAGE:** *Shall Article 1 of the Nevada Constitution be amended to require the Legislature to provide by law for the establishment of an open, competitive retail electric energy market that prohibits the granting of monopolies and exclusive franchises for the generation of electricity?*

## 2016 ELECTION RESULTS





## LOWER POWER BILLS

Consumers are saving 20% on their energy bills in choice states, as illustrated in the charts below. A study showed that on average, the 13 existing energy choice states have seen prices fall 4.5% against inflation, while monopoly states have seen prices rise against inflation by 8.5%.

## MORE RENEWABLE ENERGY

Even though Nevada has plentiful solar, wind and geothermal resources, these energy sources still only make up 20% of our energy mix. The passage of ECI will allow consumers to access clean, renewable energy and will spur the demand for building these projects right here in our state.

## JOBS JOBS JOBS

Passage of the Energy Choice Initiative means more opportunity to build new renewable energy projects and benefit from the jobs that come with it. One Nevada Economist estimated that our state could see our renewable energy economy grow as much as 8% annually, leading to as many as 35,000 new jobs.

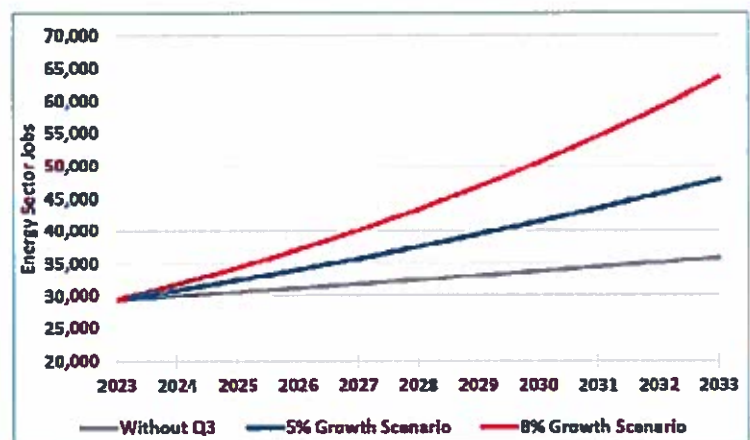
## FREEDOM TO CHOOSE

The freedom to choose your energy provider will result in increased competition, leading to more innovation, lower costs and enhanced customer service.

Source: Based on economic analysis performed by RCG Economics <http://energyfreedomnv.com/wp-content/uploads/2016/10/2016->

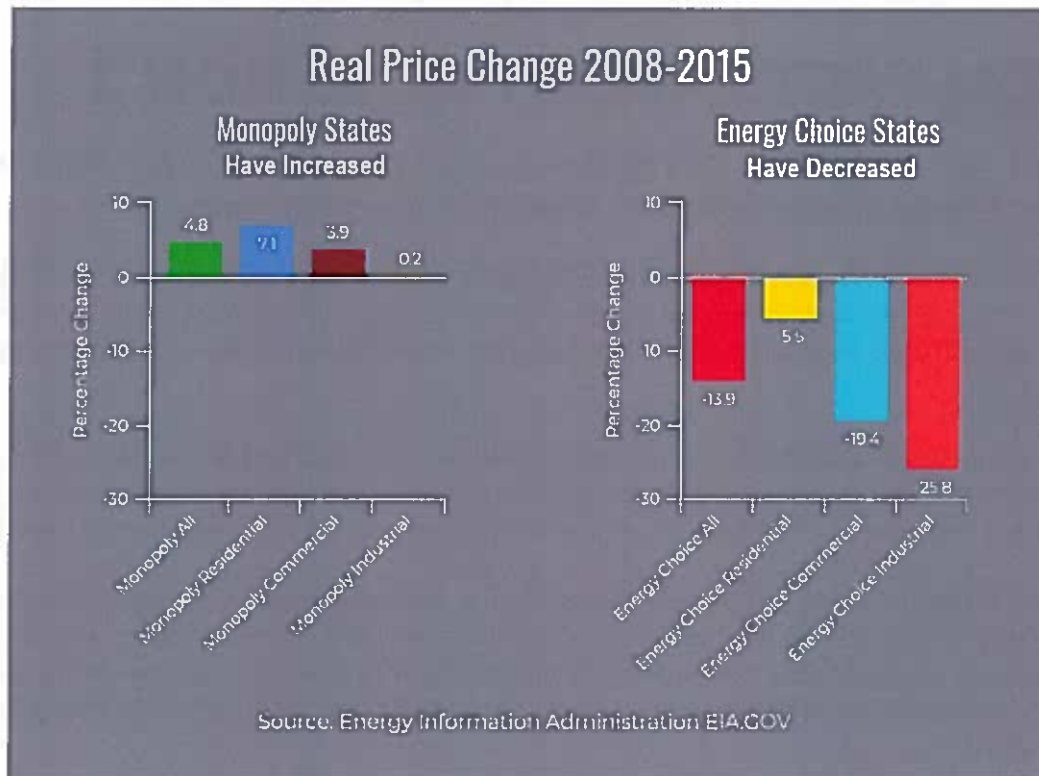
**FIGURE IV-1  
POSSIBLE JOB GROWTH  
OUTCOMES IN CLEAN  
ENERGY SECTOR: 2023-2033**

Source: RCG economics

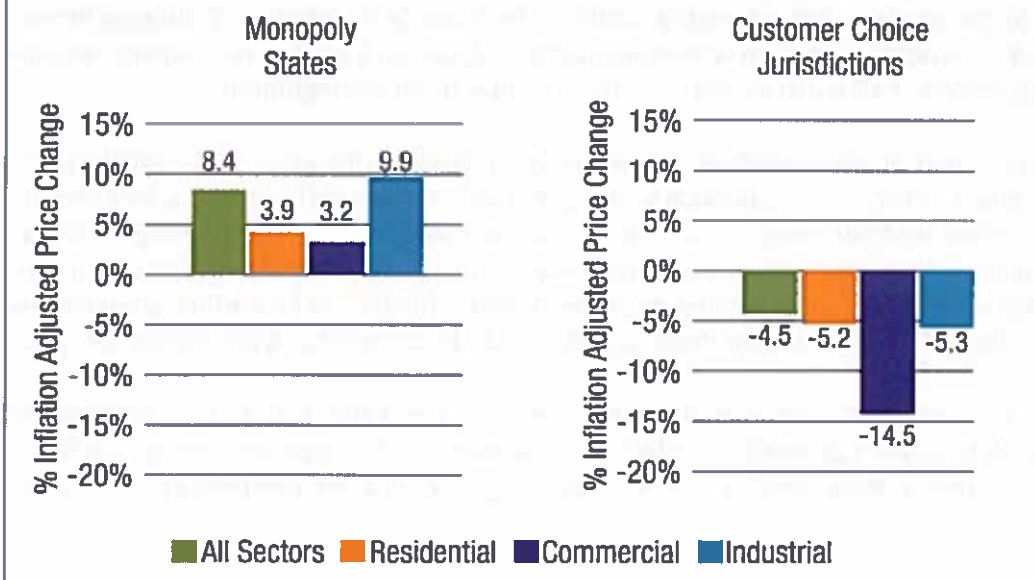




THE ENERGY CHOICE INITIATIVE



**FIGURE 7: INFLATION ADJUSTED % PRICE CHANGE  
1997-2014: CHOICE vs MONOPOLY**







## THE REAL FACTS ABOUT QUESTION 3

*You've heard the misleading information & fear branding coming from NV Energy regarding the Energy Choice Initiative. Now, it's time for the facts.*

### **MYTH #1 – ECI “LOCKS A RISKY EXPERIMENT INTO NEVADA’S CONSTITUTION”**

In reality, only two principles would be placed into the Nevada Constitution as a result of ECI: electric generation monopolies in Nevada would be eliminated and the legislature would have to create an open, competitive energy market by July 1, 2023.

The initiative does not mandate what the new market will look like. Rather, it requires that the legislature undertake the responsibility to ensure meaningful choice, freedom to compete, and consumer protection. By doing so, ECI allows for flexibility and adaptability in markets as the energy industry develops and innovates moving forward.

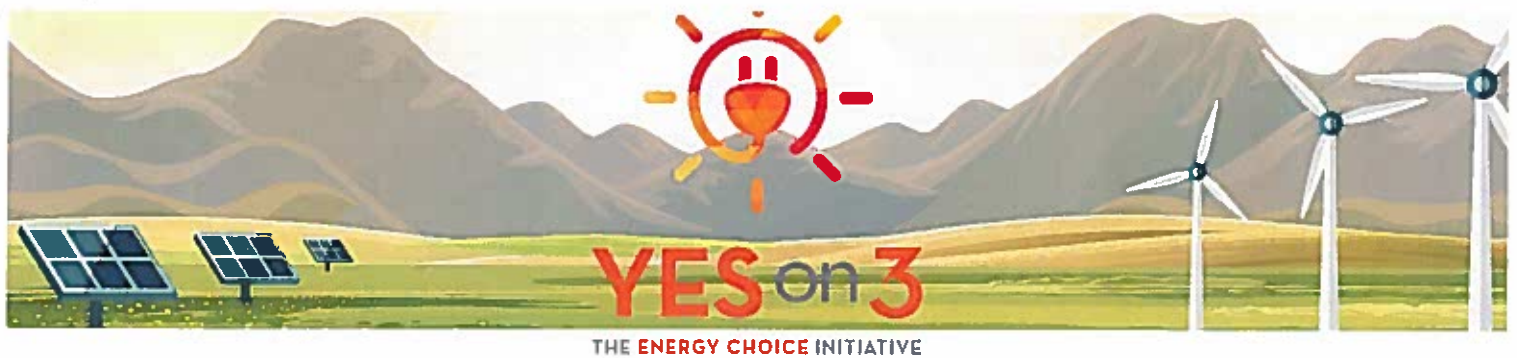
The details of implementation are left to both the legislature and administrative agencies of state government that will be responsible for carrying out the initiative, just like every other law enacted in the state of Nevada. If modifications need to be made they can be made administratively from year-to-year or during each legislative session. As such, energy choice will be implemented exactly as it has been in the 17 other states that offer some form of energy choice.

### **MYTH #2 – “COULD FORCE NEVADA TO JOIN CALIFORNIA’S ELECTRICITY GRID”**

Nevada's grid will remain just as it is today- physically connected to the Western grid which includes California and nine other Western states. However, the maximum benefits of energy choice are realized when choice states are part of an independently run wholesale electric market, as it allows for power to move freely amongst all participants in the market. One potential option is for Nevada to join the “California Independent System Operator” or CAISO, which is one such wholesale market. However, ECI does not require Nevada to join CAISO or any wholesale market at all for that matter; that decision is up to the legislature.

NV Energy is already part of one market run by the CAISO via their participation in the Western Energy Imbalance Market. Also, Valley Electric, a co-op providing power to rural Nevada customers, is a member of the full CAISO market. It's estimated that NV Energy's participation in the CAISO run Western Energy Imbalance Market has conferred \$27 million in benefits to Nevada ratepayers over the last year. Nevada's participation in the full CAISO wholesale market would yield even greater financial benefits for the state. CAISO provided estimates to the Nevada Public Utilities Commission that these benefits could be as much as \$100 million per year.

It is important to note that California does not regulate the CAISO, but it is instead overseen by the Federal Energy Regulatory Commission, which has jurisdiction to regulate energy choice states as well. The CAISO is neither a state agency nor a federal agency, but an independent non-profit corporation.



### MYTH #3 – “WOULD COST NEVADA CONSUMERS AND TAXPAYERS BILLIONS”

You will owe nothing more to NV Energy when the Energy Choice Initiative passes than you do now. If they choose to sell their generating plants (ECI does not require them to do so) there may be a claim on NV Energy's part that they are entitled to the difference between the book value of those plants (original cost less depreciation) and the market value at auction. If the market value is less than book value then the difference is called “stranded costs”. If the market value is higher than the book value the difference is a “stranded benefit”. NV Energy will try to make Nevada consumers pay if there are any stranded costs, but they will want to keep the money if there are any stranded benefits.

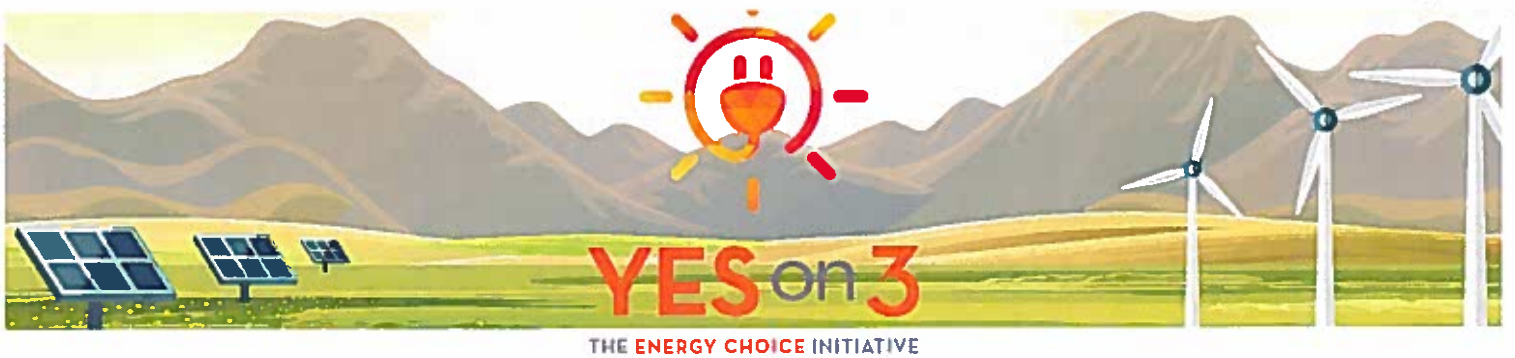
Our preliminary estimates indicate that instead of \$5 to \$12 billion of stranded costs as NV Energy has recklessly claimed, there may be stranded benefits as high as \$500 million to \$1 billion dollars related to the value of their generating assets. Also, they have included other “stranded costs” in their estimates that are just wrong and instead should be characterized as stranded benefits. For example, almost \$1 billion of NV Energy's purported stranded costs consumers will be required to pay really are 50 years in the future worth of low cost hydro power from Hoover Dam that is priced below market at \$.027 per kilowatt hour. This contract is in fact a benefit that will not be lost to Nevada consumers when ECI passes. It should be counted as a \$1 billion benefit rather than a “stranded cost”. It is completely misleading and disingenuous to do otherwise. The legislature and the Nevada Public Utilities Commission will look at these issues and properly determine the relative costs and benefits to the people of Nevada at the time that ECI is implemented. To attempt to do so now prior to the formulation of the enabling statutes by the Nevada Legislature, and the accounting and depreciation determinations by the PUCN in implementing those statutes would be pure speculation.

### MYTH #4 – “DISRUPTS NV'S PROGRESS TOWARD A RENEWABLE ENERGY FUTURE”

The Energy Choice Initiative clearly states in paragraph 3(c), “Nothing herein shall be construed to invalidate Nevada's public policies on renewable energy, energy efficiency and environmental protection or limit the Legislature's ability to impose such policies on participants in a competitive electricity market.” Assembly Bill 405 from the 2017 legislative session not only restored rooftop solar and net metering in Nevada, but also ensured that both would be preserved in an open market. In fact, in choice markets customers should receive more benefits from net metering than they do under traditional utility monopolies because the full value of the excess solar production from their systems can be valued and compensated. The passage of Question 3 guarantees that neither NV Energy nor the PUC can take away rooftop solar or net metering again

When ECI passes, it will offer the market and policy stability necessary to encourage renewable energy development in Nevada at a 5-8% higher annual rate than currently projected, according to a study. These projections will result in as many as 34,080 new jobs in our state and will produce hundreds of millions in direct annual income impact. Market participants would still have to comply with Nevada's renewable portfolio standard, currently set at 25% renewables by 2020. A proposed ballot initiative in the signature gathering phase would raise that standard to 50% renewables by 2030. With all our abundant sunshine, the Smart Electric Power Alliance doesn't even rank NV Energy in the top 10 for best solar utilities.





## MYTH #5 – “RELIABILITY WILL BE IMPACTED UNDER ECI”

The Energy Choice Initiative clearly states in paragraph 3(a), “...The legislature need not provide for the deregulation of transmission or distribution of electricity in order to establish a competitive market consistent with this act.” In other words, NV Energy is not forced to divest of their poles and wires.

NV Energy CEO Paul Caudill said himself in a 2016 TV interview that energy choice would not have any effect on reliability because “the transmission and distribution system (poles and wires) is the backbone of the system”. Under energy choice, NV Energy will still own and maintain the transmission and distribution system. So, if the power goes off you will still call NV Energy just as you do today as they will still remain in charge of grid reliability in the same areas of Nevada that they serve now. The Public Utilities Commission of Nevada (PUCN) will still regulate them and require them to ensure the safe and secure continued delivery of electricity to Nevada electric customers.

## MYTH #6 – “RATES WILL SKYROCKET”

Free market principles drive costs down, not up, in competitive markets across the country. This principle is true and understood to the point that 19 other states have limitations on monopolies in their state constitutions, 6 states have gone so far as to support amending the US Constitution to prohibit monopolies. Public opinion on monopolies is not driven by campaigns, but by everyday experience.

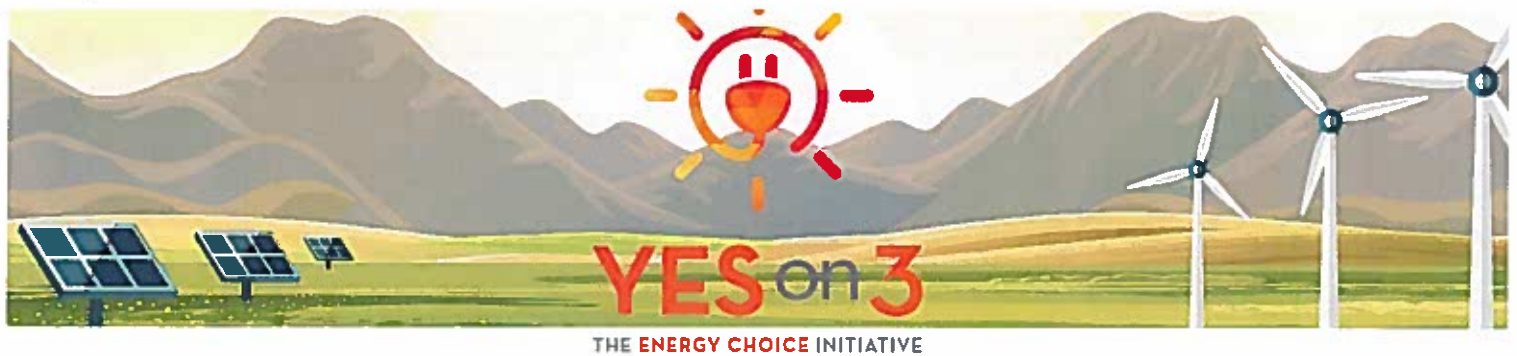
A July 2015 study definitively shows that consumers in choice state have seen their power costs fall 4.5% against inflation on average, while consumers in monopoly states have seen their price rise 8.5% more than inflation. This is true in Nevada as rates are up more than 50% since 2000, out-pacing the rate of inflation.

Energy Choice will enable all Nevada consumers to control their energy bills and lower costs in two major ways.

First, retail Energy Choice will provide both business and residential customers with meaningful options to lower energy costs through competitive energy service plans from multiple service providers where you decide which option best meets your needs and lowers your bills.

Second, Energy Choice will allow for innovative ways to re-imagine energy, for example, by giving Nevada consumers the ability to sell energy services back to the grid to further lower overall energy costs. You don’t have to have a solar system to do this or even a battery. Tens of thousands of consumers in states with retail energy competition now sell shifts in their energy use back to the grid and get paid to do so. This lowers further their overall energy bill.

The language of the Energy Choice Initiative is clear in the legislative duty to provide for safe, reliable, and competitively priced energy and to protect consumers. The initiative is also clear on establishing the legislature’s right to impose policies on participants in a competitively priced marketplace. Important issues such as low-income energy assistance can and should be addressed by the legislature as a part of implementing the Energy Choice Initiative.



### **MYTH #7 – “\$142 MILLION IN EDUCATION FUNDING WILL GO AWAY IF ECI PASSES”**

No money “goes away”. All of the assets necessary to provide energy services (lines and wires, poles and transformers, generators and substations) will all remain in place and continue to provide service. This means that regardless of who owns them, those assets will continue to pay property taxes and other assessments that will pay for schools. Further, any franchise taxes, business taxes or mill taxes that are now collected from energy revenues received by NV Energy will continue to be collected from competitive retail energy providers. No money will be lost to state or local governments. This is a blatant scare tactic with no basis in fact.

### **MYTH #8 – ENERGY CHOICE IS “DEREGULATION” AS IN “NO REGULATION”**

Energy choice is not “deregulation” but rather “thoughtful restructuring”. The Public Utilities Commission of Nevada (PUCN) will have complete regulatory authority over the lines and wires and all other distribution assets of NV Energy just as it does now. Rates for distribution service will be set by the PUCN in a full evidentiary hearing under full economic regulation.

In addition, an entity designated by the legislature will have the responsibility to fully license all new retail energy service providers and oversee and set rules and regulations for the new retail energy market. So, there will be full market regulation of the retail market by a state agency. In addition, a state agency will also be responsible for investigating consumer complaints and ensuring that consumers are treated fairly by all market participants. These functions are similar to the functions now performed by the Nevada State Contractors Board for licensing and regulating contractors who do business in Nevada providing consumers contracting services like plumbers, electricians and builders.

In addition, the Federal Energy Regulatory Commission oversees the wholesale electric markets all over the country and under ECI, Nevada will be no different.

### **MYTH #9 – “NEVADA WILL SUFFER THE SAME FATE AS CALIFORNIA DID W/ ENRON”**

The so called “Enron crisis” resulted when multiple wholesale energy market traders, including Enron, engaged in fraud and manipulation in the wholesale energy markets. This was not the result of putting retail energy choice in place. Enron and others at the time (1999-2001) were able to engage in wholesale market manipulation as a direct result of ineffective enforcement mechanisms and few resources at the federal level, causing prices to skyrocket. These prices eventually drove up retail energy prices for consumers in California and throughout the West.

In 2005, the Federal Energy Regulatory Commission (FERC) was given substantial new authority by Congress to go after fraud and manipulation in the wholesale energy markets. The FERC Office of Enforcement has gone from approximately seven people during Enron to over 200 today. Since Congress authorized FERC’s increased enforcement authority in 2005 there has not been an incident of market fraud or manipulation that even approached the scale of Enron. And every subsequent instance of attempted fraud or manipulation has resulted in heavy fines and orders of reimbursement by FERC.





## **MYTH #10 – “MASSACHUSETTS MARKET ISSUES WILL HAPPEN IN NEVADA TOO”**

Massachusetts let the incumbent monopoly utilities provide competitive service along side the competitive retail providers allowing those monopolies to subsidize their retail energy service from their regulated monopoly distribution (poles and wires) service. So of course they could and did offer lower rates to retail customers causing competitive retail providers to be pushed out of the market in a form of predatory pricing.

In Nevada we will not allow the monopoly distribution provider (NV Energy) to also provide competitive retail energy services.

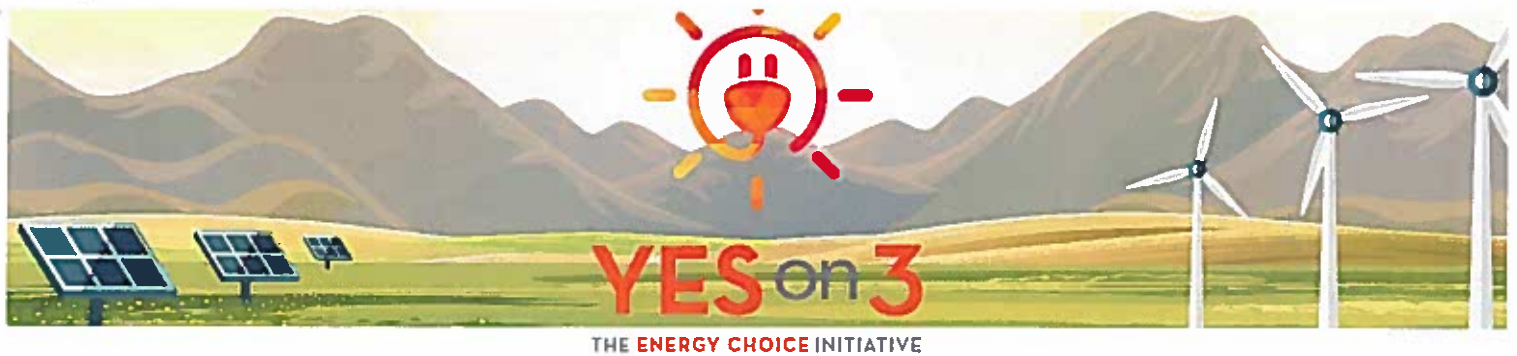
There were some small retail (residential) providers, pushed to the edge by this situation, who did engage in inappropriate behavior and perhaps even made misrepresentations to customers. Some consumers were abused and over charged, clearly. But it is also clear from reading the AG's report in Massachusetts that the Massachusetts consumer protection laws were not adequate to protect consumers from this fraud and abuse.

The legislature in Nevada is tasked by the initiative to ensure that the enabling legislation provides for strong consumer protection laws that prevent such fraud and abuse.

The retail market for residential consumers in Massachusetts is, according to the AG's own report, not transparent. Thus consumers are prevented from easily shopping and comparing retail energy offers. Consumers had no idea if what they were being offered by a particular retail provider was a good deal or not.

In Nevada, the legislature can ensure that we have an open and transparent system like they do in Texas where there is a independent government run website that is updated constantly to provide consumers with the latest offers by all retail energy providers in the state.

In Nevada, NV Energy is estimated to have overcharged Nevadans about \$300 million in the last few years alone, resulting in about \$200 million in over earnings for the utility. Consumers are already being negatively financially impacted by the monopoly utility in Nevada.



## MYTH #11 - THE PUC REPORT

In April of 2018, the PUCN adopted a report prepared by Chairman Joe Reynolds. The PUCN Report was over 100 pages and has been questioned as exceeding the bounds of its subject matter as assigned by the Governor's Committee on Energy Choice ("CEC"). The ECI campaign prepared a motion and detailed rebuttal comments on the PUCN Report prior to the report's adoption. Instead of being properly placed into the docket for public viewing, it was placed into the public comment file and is only accessible by public records request. To this day, the ECI motion and Rebuttal Comments have never been disclosed or ruled upon. Such treatment of a motion is unprecedented in PUCN practice.

The ECI Rebuttal alleged that the PUCN Report: (i) did not respect the spirit of the Nevada initiative process and improperly committed public resources to comment on and criticize the initiative; (ii) exceeded PUCN authority; (iii) did not adhere to the guidelines set forth by the CEC; and (iv) was based on numerous factual and legal errors. The PUCN Report warns the public against the Energy Choice initiative, raises concerns of hundreds of millions of dollars of costs, and a future where the PUCN is unable to protect the public from the unknowns of energy choice. The reality is ECI presents Nevada residents with several opportunities that will keep energy costs low for consumers, allow for the development of clean, renewable energy, create jobs, and put Nevada in a position to become a national leader in energy development and policy. These opportunities have been highlighted by numerous entities over the past three years and have been discussed in detail by experts.

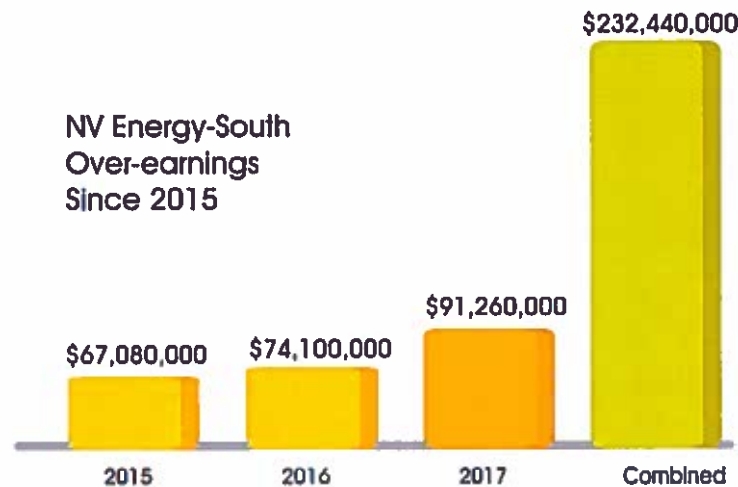
One report is that of Dr. Phil O'Connor, Ph.D., on behalf of the Retail Energy Supply Association, who presented his findings before the PUCN during the investigation and workshop. Dr. O'Connor collected twenty years of data from states that have adopted competitive electric markets and states that have maintained traditional energy monopolies. He found that (a) electricity prices in states with competitive retail markets trend downward, whereas monopoly states trend upward; (b) investments in competitive market states are tempered by the market, rather than driven upward by guaranteed, captive rate-payers; and (c) power plants in market states worked more efficiently than their counterparts in monopoly states. Despite this evidence, the PUCN Report inexplicably concludes that if energy choice is adopted, rates will rise. The only way to reach such a conclusion would have been to wholly ignore this empirically researched analysis while embracing NV Energy's unsupported allegations of higher costs. And indeed, review of Chairman Reynolds' initial report reveals no mention of Dr. O'Connor's work. However, it was mentioned in the addendum after the final report was approved on April 30, 2018.

A report by industry expert Mark Garrett, on behalf of ECI, also rebutted the PUC's claim that setting up the new market would cost \$4 billion. To the contrary, Mr. Garrett found that there would be \$1.1 billion in net benefits to Nevada ratepayers when ECI passes, with more than \$500 million of that coming from accumulated deferred income taxes, which is Nevada ratepayer money that was not addressed in the PUC report. These discrepancies are disconcerting, as they provide evidence that the PUC Report restates NV Energy talking points and purposefully excludes counter-evidence in an effort to protect the monopoly.



THE ENERGY CHOICE INITIATIVE

## NV ENERGY OVER-EARNINGS (SOUTHERN NEVADA ONLY)



## NV ENERGY QUARTERLY OVER-EARNINGS (SOUTHERN NEVADA ONLY)

| Year-to-Date Quarters | NV Energy-South Earned Rate on Equity | NV Energy-South Authorized Return on Equity | Variance (%) | Variance (basis points) | NV Energy-South Quarterly Over-Earnings* |
|-----------------------|---------------------------------------|---------------------------------------------|--------------|-------------------------|------------------------------------------|
| Q1 2015               | 11.06%                                | 9.80%                                       | 1.26%        | 126                     | \$12,285,000                             |
| Q2 2015               | 11.03%                                | 9.80%                                       | 1.23%        | 123                     | \$15,990,000                             |
| Q3 2015               | 11.34%                                | 9.80%                                       | 1.54%        | 154                     | \$30,030,000                             |
| Q4 2015               | 11.52%                                | 9.80%                                       | 1.72%        | 172                     | \$67,080,000                             |
| 2015 Total            | 11.52%                                | 9.80%                                       | 1.72%        | 172                     | \$67,080,000                             |
| Q1 2016               | 11.05%                                | 9.80%                                       | 1.25%        | 125                     | \$12,187,500                             |
| Q2 2016               | 11.52%                                | 9.80%                                       | 1.72%        | 172                     | \$22,360,000                             |
| Q3 2016               | 11.59%                                | 9.80%                                       | 1.79%        | 179                     | \$34,905,000                             |
| Q4 2016               | 11.70%                                | 9.80%                                       | 1.90%        | 190                     | \$74,100,000                             |
| 2016 Total            | 11.70%                                | 9.80%                                       | 1.90%        | 190                     | \$74,100,000                             |
| Q1 2017               | 12.15%                                | 9.80%                                       | 2.35%        | 235                     | \$22,912,500                             |
| Q2 2017               | 12.70%                                | 9.80%                                       | 2.99%        | 299                     | \$38,870,000                             |
| Q3 2017               | 12.29%                                | 9.80%                                       | 2.49%        | 249                     | \$48,555,000                             |
| Q4 2017**             | 12.14%                                | 9.80%                                       | 2.34%        | 234                     | \$64,740,000                             |
| 2017 Total            | 12.14%                                | 9.80%                                       | 2.34%        | 234                     | \$91,260,000                             |

\* Based on Docket No. 17-06003, see Smart Energy Alliance Expert Witness Written Testimony, Brad Mullins at 4. See also PUCN Staff's testimony that every 10 basis points of Return on Equity ("ROE") is worth approximately \$3.9 million. Swetha Venkat Testimony p. 184, Ins. 17-20.

\*\* Q4 2017 Estimate based on annualizing 3rd Quarter YTD 2017 Results.

**GRAND  
TOTAL**

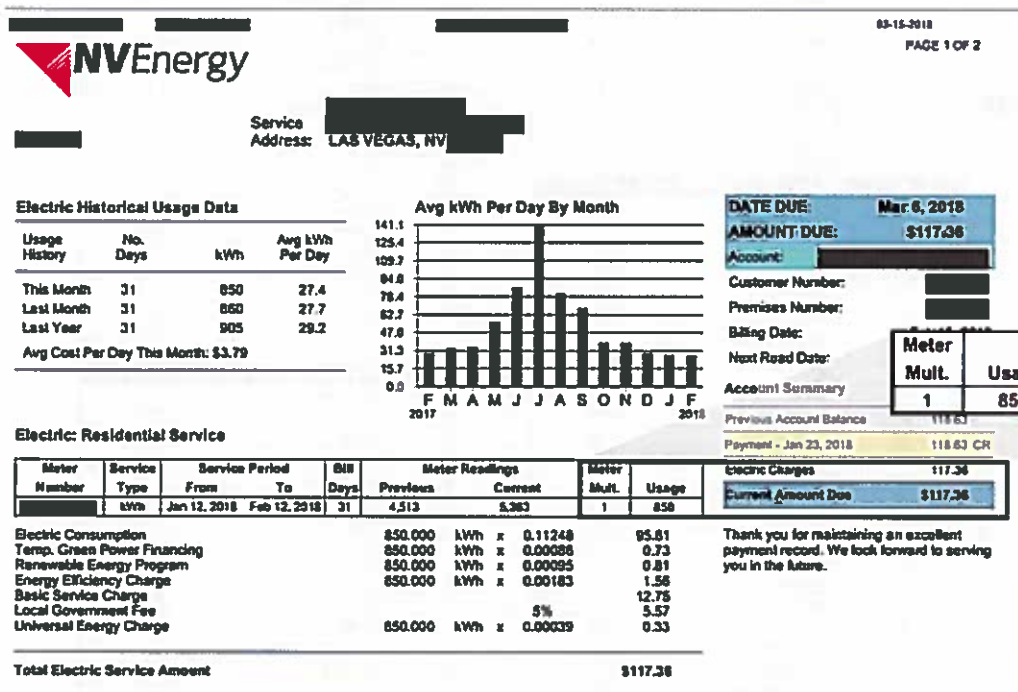
**\$232,440,000**





## CALCULATE YOUR OWN BILL

CONSUMERS DON'T PAY RATES, THEY PAY BILLS AND NEVADA'S EFFECTIVE RATES ARE MUCH HIGHER THAN THE 8.38 CENTS/KWH THAT NV ENERGY PROCLAIMS IN IT'S ADS



To determine your actual power cost, divide your **"current charges"** by the **"usage"**.

Total bill cost of \$117.36 /  
usage of 850 kWh

**13.8 cents a kWh**



THE ENERGY CHOICE INITIATIVE

## 2016-2018 RESIDENTIAL RATES BY EIA.GOV

| Residential Electricity Rates by State<br>2016 Annual Average |                |              | Residential Electricity Rates by State<br>2017 Annual Average |                |              | Residential Electricity Rates by State<br>March 2018 YTD |                |              |
|---------------------------------------------------------------|----------------|--------------|---------------------------------------------------------------|----------------|--------------|----------------------------------------------------------|----------------|--------------|
| Rank                                                          | State          | Cost per kWh | Rank                                                          | State          | Cost per kWh | Rank                                                     | State          | Cost per kWh |
| 1                                                             | Louisiana      | 9.34         | 1                                                             | Louisiana      | 9.51         | 1                                                        | Louisiana      | 9.05         |
| 2                                                             | Washington     | 9.48         | 2                                                             | Washington     | 9.60         | 2                                                        | North Dakota   | 9.24         |
| 3                                                             | Arkansas       | 9.92         | 3                                                             | Idaho          | 10.11        | 3                                                        | Washington     | 9.56         |
| 4                                                             | Idaho          | 9.95         | 4                                                             | Arkansas       | 10.22        | 4                                                        | Oklahoma       | 9.65         |
| 5                                                             | North Dakota   | 10.16        | 5                                                             | North Dakota   | 10.40        | 5                                                        | Nebraska       | 9.67         |
| 6                                                             | Oklahoma       | 10.20        | 6                                                             | Oklahoma       | 10.48        | 6                                                        | Missouri       | 9.73         |
| 7                                                             | Tennessee      | 10.41        | 7                                                             | Kentucky       | 10.64        | 7                                                        | Arkansas       | 9.79         |
| 8                                                             | Mississippi    | 10.47        | 8                                                             | Tennessee      | 10.65        | 8                                                        | Idaho          | 10.15        |
| 9                                                             | Kentucky       | 10.49        | 9                                                             | Oregon         | 10.71        | 9                                                        | Kentucky       | 10.16        |
| 10                                                            | Oregon         | 10.66        | 10                                                            | Nebraska       | 10.98        | 10                                                       | Tennessee      | 10.40        |
| 11                                                            | Nebraska       | 10.84        | 11                                                            | Utah           | 11.04        | 11                                                       | Utah           | 10.40        |
| 12                                                            | Montana        | 10.94        | 12                                                            | Montana        | 11.11        | 12                                                       | Oregon         | 10.66        |
| 13                                                            | Florida        | 10.98        | 13                                                            | North Carolina | 11.12        | 13                                                       | Montana        | 10.74        |
| 14                                                            | Texas          | 10.99        | 14                                                            | Texas          | 11.18        | 14                                                       | South Dakota   | 10.77        |
| 15                                                            | Utah           | 11.02        | 15                                                            | Mississippi    | 11.19        | 15                                                       | North Carolina | 10.84        |
| 16                                                            | North Carolina | 11.03        | 16                                                            | Missouri       | 11.27        | 16                                                       | Georgia        | 10.90        |
| 17                                                            | Wyoming        | 11.13        | 17                                                            | Wyoming        | 11.41        | 17                                                       | Wyoming        | 10.91        |
| 18                                                            | Missouri       | 11.21        | 18                                                            | West Virginia  | 11.62        | 18                                                       | Mississippi    | 11.07        |
| 19                                                            | Virginia       | 11.36        | 19                                                            | Virginia       | 11.67        | 19                                                       | Texas          | 11.11        |
| 20                                                            | Nevada         | 11.41        | 20                                                            | South Dakota   | 11.68        | 20                                                       | West Virginia  | 11.25        |
| 21                                                            | West Virginia  | 11.44        | 21                                                            | Georgia        | 11.80        | 21                                                       | Virginia       | 11.30        |
| 22                                                            | South Dakota   | 11.47        | 22                                                            | Florida        | 11.85        | 22                                                       | Iowa           | 11.48        |
| 23                                                            | Georgia        | 11.50        | 23                                                            | Indiana        | 11.95        | 23                                                       | Indiana        | 11.52        |
| 24                                                            | Indiana        | 11.79        | 24                                                            | Nevada         | 12.00        | 24                                                       | Colorado       | 11.66        |
| 25                                                            | Iowa           | 11.94        | 25                                                            | Colorado       | 12.13        | 25                                                       | Florida        | 11.98        |
| 26                                                            | Alabama        | 11.99        | 26                                                            | Ohio           | 12.37        | 26                                                       | Alabama        | 12.06        |
| 27                                                            | New Mexico     | 12.03        | 27                                                            | Arizona        | 12.50        | 27                                                       | Ohio           | 12.16        |
| 28                                                            | Colorado       | 12.07        | 28                                                            | Iowa           | 12.60        | 28                                                       | South Carolina | 12.21        |
| 29                                                            | Arizona        | 12.15        | 29                                                            | Alabama        | 12.61        | 29                                                       | New Mexico     | 12.23        |
| 30                                                            | DC             | 12.29        | 30                                                            | Illinois       | 12.70        | 30                                                       | Delaware       | 12.25        |
| 31                                                            | Ohio           | 12.47        | 31                                                            | South Carolina | 12.78        | 31                                                       | Arizona        | 12.26        |
| 32                                                            | Illinois       | 12.54        | 32                                                            | New Mexico     | 12.92        | 32                                                       | Illinois       | 12.48        |
| 33                                                            | South Carolina | 12.65        | 33                                                            | DC             | 12.93        | 33                                                       | Nevada         | 12.49        |
| 34                                                            | Minnesota      | 12.67        | 34                                                            | Minnesota      | 13.19        | 34                                                       | Minnesota      | 12.55        |
| 35                                                            | Kansas         | 13.06        | 35                                                            | Kansas         | 13.27        | 35                                                       | DC             | 12.59        |
| 36                                                            | Delaware       | 13.42        | 36                                                            | Delaware       | 13.44        | 36                                                       | Kansas         | 12.69        |
| 37                                                            | Pennsylvania   | 13.86        | 37                                                            | Maryland       | 13.99        | 37                                                       | Maryland       | 13.09        |
| 38                                                            | Wisconsin      | 14.07        | 38                                                            | Pennsylvania   | 14.33        | 38                                                       | Pennsylvania   | 13.84        |
| 39                                                            | Maryland       | 14.23        | 39                                                            | Wisconsin      | 14.68        | 39                                                       | Wisconsin      | 14.22        |
| 40                                                            | Michigan       | 15.22        | 40                                                            | Michigan       | 15.47        | 40                                                       | Michigan       | 15.46        |
| 41                                                            | New Jersey     | 15.72        | 41                                                            | New Jersey     | 15.69        | 41                                                       | New Jersey     | 15.59        |
| 42                                                            | Maine          | 15.83        | 42                                                            | Maine          | 15.96        | 42                                                       | Maine          | 15.95        |
| 43                                                            | Vermont        | 17.37        | 43                                                            | Vermont        | 17.65        | 43                                                       | Vermont        | 17.64        |
| 44                                                            | California     | 17.39        | 44                                                            | New York       | 18.04        | 44                                                       | New York       | 17.82        |
| 45                                                            | New York       | 17.58        | 45                                                            | California     | 18.24        | 45                                                       | California     | 19.03        |
| 46                                                            | New Hampshire  | 18.38        | 46                                                            | Rhode Island   | 18.30        | 46                                                       | New Hampshire  | 19.62        |
| 47                                                            | Rhode Island   | 18.62        | 47                                                            | Massachusetts  | 18.92        | 47                                                       | Connecticut    | 20.77        |
| 48                                                            | Massachusetts  | 19.00        | 48                                                            | New Hampshire  | 19.22        | 48                                                       | Rhode Island   | 21.42        |
| 49                                                            | Connecticut    | 20.01        | 49                                                            | Connecticut    | 20.31        | 49                                                       | Alaska         | 21.43        |
| 50                                                            | Alaska         | NM           | 50                                                            | Alaska         | 21.57        | 50                                                       | Massachusetts  | 21.64        |
| 51                                                            | Hawaii         | 27.47        | 51                                                            | Hawaii         | 29.50        | 51                                                       | Hawaii         | 31.57        |

Table 5.6.B Average Price of Electricity for 2016/2017  
Annual average: <https://www.eia.gov/electricity/monthly/archive/february2018.pdf>

Table 5.6.B Average Price of Electricity March 2018 YTD  
[https://www.eia.gov/electricity/monthly/current\\_month/epm.pdf](https://www.eia.gov/electricity/monthly/current_month/epm.pdf)

Published 5/24/2018

## THE ENERGY CHOICE INITIATIVE

Explanation: Language in ***bolded italics*** is to be added to the constitution by this amendment.

**The People of the State of Nevada do enact as follows:**

**Section 1:** Article 1 of the Nevada Constitution is hereby amended by adding thereto a new section to read as follows:

**1. Declaration of Policy:**

***The People of the State of Nevada declare that it is the policy of this State that electricity markets be open and competitive so that all electricity customers are afforded meaningful choices among different providers, and that economic and regulatory burdens be minimized in order to promote competition and choices in the electric energy market. This Act shall be liberally construed to achieve this purpose.***

**2. Rights of Electric Energy Purchasers:**

***Effective upon the dates set forth in subsection 3, every person, business, association of persons or businesses, state agency, political subdivision of the State of Nevada, or any other entity in Nevada has the right to choose the provider of its electric utility service, including but not limited to, selecting providers from a competitive retail electric market, or by producing electricity for themselves or in association with others, and shall not be forced to purchase energy from one provider. Nothing herein shall be construed as limiting such persons' or entities' rights to sell, trade or otherwise dispose of electricity.***

**3. Implementation**

***(a) Not later than July 1, 2023, the Legislature shall provide by law for provisions consistent with this Act to establish an open, competitive retail electric energy market, to ensure that protections are established that entitle customers to safe, reliable, and competitively priced electricity, including, but not limited to, provisions that reduce costs to customers, protect against service disconnections and unfair practices, and prohibit the grant of monopolies and exclusive franchises for the generation of electricity. The Legislature need not provide for the deregulation of transmission or distribution of electricity in order to establish a competitive market consistent with this Act.***

***(b) Upon enactment of any law by the Legislature pursuant to this Act before July 1, 2023, and not later than that date, any laws, regulations, regulatory orders or other provisions which conflict with this Act will be void. However, the Legislature may enact legislation consistent with this act that provides for an open electric energy market in part or in whole before July 1, 2023.***

***(c) Nothing herein shall be construed to invalidate Nevada's public policies on renewable energy, energy efficiency and environmental protection or limit the Legislature's ability to impose such policies on participants in a competitive electricity market.***

**4. Severability:**

***Should any part of this Act be declared invalid, or the application thereof to any person, thing or circumstance is held invalid, such invalidity shall not affect the remaining provisions or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable. This subsection shall be construed broadly to preserve and effectuate the declared purpose of this Act.***

**RECEIVED**

FEB 03 2016

SECRETARY OF STATE  
ELECTIONS DIVISION



# NOON3

## RISKY & COSTLY

### Information about Question 3



#### Professional & Non-Profit Organizations

AARP Nevada  
Mi Familia Vota  
Nevada Alliance for Retired Americans (NARA)  
Nevada Association of Public Safety Officers  
Nevada Cattlemen's Association  
Nevada Farm Bureau  
Nevada Mining Association  
Nevada State Association of Electrical Workers  
Nevada Veterans Association  
Professional Fire Fighters of Nevada  
Progressive Leadership Alliance of Nevada (PLAN)  
Reno Firefighters Association

#### Environmental & Clean Energy

Natural Resources Defense Council  
Sierra Club, Nevada Chapter  
Southwest Energy Efficiency Project (SWEET)  
Western Resource Advocates  
Geothermal Resources Council

#### Labor

AFSCME Local 4041  
AFSCME Retirees Chapter 4041  
IAFF Local 731  
IATSE Local 720  
IBEW Local 1245  
IBEW 1245 Retirees  
IBEW Local 396  
IBEW Local 401  
Nevada State AFL-CIO  
SEIU Nevada Local 1107  
Southern Nevada Central Labor Council  
Teamsters Local 631

#### Chambers of Commerce

Fernley Chamber of Commerce  
Las Vegas Asian Chamber of Commerce  
Las Vegas Metro Chamber of Commerce  
Latin Chamber of Commerce - Nevada  
Urban Chamber of Commerce - Nevada  
White Pine Chamber of Commerce  
Wells Rural Electric Company

#### Electricity Cooperatives

Harney Electric Cooperative  
Mt. Wheeler Power, Inc

Raft River Rural Electric Co-op

Wells Rural Electric Company

**Question 3** is a Constitutional Amendment on Nevada's statewide ballot this November. If passed, this deeply flawed measure would deregulate and dismantle Nevada's existing electricity system, and would eliminate current consumer protections that keep a lid on electric rates.

Question 3 would cost Nevada consumers and taxpayers billions of dollars, cause the loss of thousands of good-paying jobs, and disrupt Nevada's progress toward a clean energy future.

FIRST-CLASS MAIL  
U.S. POSTAGE  
PAID  
VICTORY  
IMB-POSTAGE



COALITION TO DEFEAT QUESTION 3  
PO BOX 1539  
LAS VEGAS NV 89125-1539

To join our broad coalition, please visit  
[NOon3.com/Join](http://NOon3.com/Join)

PAID FOR BY THE COALITION TO DEFEAT QUESTION 3



**Electricity deregulation has failed in other states**

In the late 1990s and early 2000s, 24 states passed laws to deregulate their electricity systems. The results were so negative that 10 of those states – including Nevada – reversed course and went back to regulated electricity markets. California’s failed attempt to deregulate electricity led to skyrocketing electric rates, rolling blackouts, the Enron energy resale scandal, and over \$40 billion in added costs for consumers and taxpayers.

Today, it’s been nearly 20 years since any state has tried to deregulate its electricity system because the process has proven to be so unsuccessful.

**Question 3 would lock a risky experiment into Nevada’s Constitution**

Question 3’s approach to electricity deregulation is especially risky because it’s a Constitutional Amendment. If things go wrong, it would be very difficult and take at least 4 years to repeal. In fact, no state has ever used a Constitutional Amendment to deregulate its electricity system.

[Question 3] doesn’t say that it guarantees reduced prices ... I want to be careful that we’re realistic about what can happen.”

– Texas-based energy marketer & Question 3 supporter  
Timothy Biehn, Nevada’s Public Utilities Commission, 11-15-18

**Question 3 would cost consumers and taxpayers billions of dollars**

According to a recent independent study by the Public Utilities Commission of Nevada, dismantling Nevada’s existing electricity system would cost \$4 billion. There would also be major costs involved in establishing a new deregulated electricity system. These costs would be paid for by all Nevadans in the form of higher electric bills and higher taxes.

Under Nevada’s current electricity system, average rates have already decreased 15% over the past decade, and are among the lowest in the country. In fact, in the 14 states that deregulated electricity, average residential rates are 30% higher than in Nevada. Even Question 3’s proponents have admitted in public hearings that the measure doesn’t guarantee lower electricity prices.

**Question 3 would disrupt Nevada’s progress toward a clean energy future**

Nevada’s existing electricity system is a leader in renewable energy, ranking 2nd in the nation for geothermal and 4th for solar power. But Question 3 would threaten over 50 existing and planned clean energy projects across the state, including six major solar energy projects that will generate enough clean energy to power over 600,000 homes.

Question 3 would also eliminate Nevada’s current rooftop solar program, which serves over 23,000 homes and small businesses across the state and is rapidly growing. That’s why the authors of Nevada’s net metering legislation and clean energy advocates like the Sierra Club oppose Question 3.



**You may list me as a member of the Coalition to Defeat Question 3!**

I oppose Question 3, a Constitutional Amendment on the November 2018 Nevada statewide ballot. You may list me publicly as a member of the Coalition to Defeat Question 3, a bipartisan coalition urging a NO vote on this risky and costly measure.

\_\_\_\_\_  
(se print)

\_\_\_\_\_  
cupation or Job Title\*

\_\_\_\_\_  
dress

\_\_\_\_\_  
iber

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Employer\*

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Email Address

Below, please list any other current or former titles or affiliations you may have, including other job titles, organizational/board positions, volunteer activities, awards, etc.

LANDER COUNTY COMMISSIONERS MEETING  
10/11/2018

Agenda Item Number \_\_7\_\_

***THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:***

Discussion and possible action to approve/disapprove an individual to fill one of two vacancies on the Austin Airport Advisory Board, a Category III board that serves a two year term per NRS 244.1945, with term expiring June 30, 2020 and to consider the following:

a) Tom Andersen;

And all other matters properly related thereto.

Public Comment:

Background: Letter of interest attached

Recommended Action:

August 28, 2018

Lander County Board of Commissioners  
50 State Route 305  
Battle Mountain, NV 89820

FILED

2018 SEP -4 AM 11:20

LANDER COUNTY CLERK

Dear Sirs:

Please consider this letter a request for appointment to the Austin Airport Advisory Board.

I have a home in south Lander County, I own property in the Reese River Valley, I volunteer as the manager of the Kingston Airport, and I own an airplane which I regularly fly into the Austin Airport.

Thank you for your consideration.



Tom Andersen  
HC65, Box 170  
Austin, NV 89310

530 265 5565  
775 964 1247  
juliejez@comcast.net

RECEIVED

SEP 04 2018

LANDER COUNTY CLERK

LANDER COUNTY COMMISSIONERS MEETING  
10/11/2018

Agenda Item Number \_\_8\_\_

***THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:***

Discussion and possible action to award a medical marijuana cultivation facility license and a medical marijuana production facility license to, Rural Remedies, a pre-qualified applicant located in Northern Lander County, and all other matters properly related thereto.

Public Comment:

Background:

Recommended Action:

LANDER COUNTY COMMISSIONERS MEETING  
10/11/2018

Agenda Item Number \_\_9\_\_

***THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:***

Discussion and possible action to approve the appointment of Elizabeth Barela as Human Resource Assistant at a salary of \$35,000.00 a year plus benefits, which would be in a addition to her present position as Office Manager for the District Attorney, and all other matters properly related thereto.

Public Comment:

Background:

Recommended Action:



**NRS 244.135 Duties; employees and assistants.**

1. The county manager shall perform such administrative functions of the county government as may be required by the board of county commissioners.

2. The county manager may, with the approval of the board of county commissioners, appoint such assistants and other employees as are necessary to the proper functioning of his or her office. The salaries of such assistants and employees and other expenses of conducting the office of the county manager shall be fixed and determined by the county manager with the consent and approval of the board of county commissioners.

[2:221:1951] — (NRS A 1957, 279)

LANDER COUNTY COMMISSIONERS MEETING  
10/11/2018

Agenda Item Number \_10\_\_

***THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:***

Discussion and possible action to approve/disapprove the Lander County Credit Card/Charge Account Agreement and the Policy and Procedures for County Credit Card/Charge Account Use and Accountability for Lander County Department Heads and Elected Officials, and all other matters properly related thereto.

Public Comment:

Background: **Policy attached**

Recommended Action:

**Policy and Procedures**  
**County Credit Card/Charge Account Use and Accountability**

1. **Authorization-** The County must order credit card and use limit from financial institution. Notification shall be given to the County Manager for issuance and dollar limit.
2. **Use Agreement-** Before card(s) may be activated a signed acknowledgment must be obtained that user agrees and understands the procedures governing use and retention of ability to use County resources.
3. **Restricted Use-** The use of County credit card or charge account is subject to the following restrictions:
  - No one except someone that has signed an agreement of use from the County for credit cards/charge accounts will be permitted to use County credit cards or charge accounts.
  - Only the individual with their name on the face of the card can authorize the use of that credit card/charge account.
  - Each expense charged must be accompanied by the itemized receipt.
  - Documentation of each expense should be received as soon as possible, but no later than 10 business days from the date the department receives their statement.
  - If a position is terminated documentation must be received within 2 business days for all expenses.
  - No cash advances will be permitted on any County credit cards.
  - County resources are to be used for the business purposes of the County. Disciplinary action may be taken when applicable for violations of the aforementioned rules.
  - Any expense of more than \$1500.00, with the exception of travel, training and per diem, will have a purchase order with backup turned into the finance department.
4. **Credit Cards/Charge accounts will be used for Lander County purchasing only.**



# *Lander County Board of Commissioners*

## **LANDER COUNTY CREDIT CARD/ CHARGE ACCOUNT AGREEMENT**

To be completed prior to receipt of a Lander County credit card for new user or to be completed by existing users who presently have a Lander County credit card in their possession.

I, \_\_\_\_\_, agree to the following regarding my use of a Lander County credit card/charge account.

1. I understand that I am being entrusted with a Lander County credit card/Charge Account and will be making financial commitments on behalf of Lander County and will strive to obtain the best purchase value for Lander County when using the credit card/Charge Account. I understand public record laws apply to credit card/charge account purchases.
2. I have received a copy of the **Lander County Travel Policy** and agree to comply with this policy. I have read, and I understand this document, and understand the requirements for using the County credit card/charge account.
3. I will not let anyone else, unless authorized by me, to use the Lander County credit card/charge account that which has been issued to me.
4. I understand that the credit card/charge account may be used only for budgeted and authorized purchases on behalf of Lander County. **I agree that under no circumstances will I use the credit card/charge account to make personal purchases, either for myself or for others.**
5. I understand that purchases made on behalf of Lander County with my credit card/charge account will be considered made by me and it will be my responsibility to account for the transactions.
6. I am responsible for the safekeeping of the credit card. If it is lost, I will immediately notify the County Manager.
7. I will follow the procedures established by the County for using the credit card including timely reconciliation of the statements, and submitting the statement with all receipts incurred to the Administrative Office.
8. I understand any purchases over \$1500.00, with the exception of travel, training and per diem, I will get a purchase order with backup turned into the finance department.
9. I agree that upon separation, I will return my credit card to Lander County and comply with the timely reporting requirements.

County Department: \_\_\_\_\_

Elected Official or Employee's Legal Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Credit Card Account Number: \_\_\_\_\_ Issue Date: \_\_\_\_\_

Witness \_\_\_\_\_

50 State Route 305 < > Battle Mountain NV 89820  
Phone: (775) 635-2573 < > Fax: (775) 635-5332

LANDER COUNTY COMMISSIONERS MEETING  
10/11/2018

Agenda Item Number \_11\_\_

***THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:***

Discussion and possible action to set a Holiday schedule for the November and December, 2018 Commission Meetings, and all other matters properly related thereto.

Public Comment:

Background:

Recommended Action:

LANDER COUNTY COMMISSIONERS MEETING  
10/11/2018

Agenda Item Number \_\_12\_\_

*THE REQUESTED ACTION OF THE LANDER COUNTY COMMISSION IS:*  
Correspondence/reports/potential upcoming agenda items.

Public Comment:

Background:

Recommended Action: