



REGIONAL TRANSPORTATION COMMISSION

Metropolitan Planning • Public Transportation & Operations • Engineering & Construction

Metropolitan Planning Organization of Washoe County, Nevada

Meeting Date: 11/18/2022

From: Scott Gibson, Project Manager

RECOMMENDED ACTION

Approve a contract with Lumos and Associates, Inc., to provide design services and engineering during construction for the 2023 Preventive Maintenance project in an amount not to exceed \$927,490.

BACKGROUND AND DISCUSSION

This Professional Services Agreement (PSA) with Lumos and Associates, Inc., is for professional design and engineering during construction services for the 2023 Preventive Maintenance project in the amount of \$927,490. The construction project will consist of pavement patching, crack sealing, and micro-surfacing of approximately two-hundred (200) lane miles of regional roads within Washoe County, Reno, and Sparks. Also included within the scope of work of this PSA are striping design services for road modifications to provide operational and safety improvements.

Lumos and Associates, Inc., was selected off the pre-qualified list as the consultant for this project due to their experience and performance in providing project scoping, plan development, and construction services.

FISCAL IMPACT

Appropriations are included in the FY 2023 Capital Budget.

PREVIOUS BOARD ACTION

10/15/2021 Approved 2022 Preventive Maintenance Program.

**AGREEMENT
FOR
PROFESSIONAL SERVICES**

This agreement (this “Agreement”) is dated and effective as of _____, 2022, by and between the Regional Transportation Commission of Washoe County (“RTC”) and Lumos & Associates, Inc. (“CONSULTANT”).

WITNESSETH:

[WHEREAS, RTC has selected Lumos & Associates, Inc. from the Civil Engineering Design & Construction Management shortlist to perform certain engineering, design, construction management, and quality assurance services in connection with the 2023 Preventive Maintenance Project (the “Project”).]

NOW, THEREFORE, RTC and CONSULTANT, in consideration of the mutual covenants and other consideration set forth herein, do hereby agree as follows:

ARTICLE 1 – TERM AND ENGAGEMENT

- 1.1. The term of this Agreement shall be from the date first written above through December 31, 2023, unless terminated at an earlier date, or extended to a later date, pursuant to the provisions herein.
- 1.2. CONSULTANT will perform the work using the project team identified in the Exhibit A – Scope of Work. Any changes to the project team must be approved by RTC’s Project Manager.
- 1.3. CONSULTANT will promptly, diligently and faithfully execute the work to completion in accordance with applicable professional standards subject to any delays due to strikes, acts of God, act of any government, civil disturbances, or any other cause beyond the reasonable control of CONSULTANT.
- 1.4. CONSULTANT shall not proceed with work until both parties have executed this Agreement and a purchase order has been issued to CONSULTANT. If CONSULTANT violates that prohibition, CONSULTANT forfeits any and all right to reimbursement and payment for that work and waives any and all claims against RTC, its employees, agents, and affiliates, including but not limited to monetary damages, and any other remedy available at law or in equity arising under the terms of this Agreement. Furthermore, prior to execution and issuance of a purchase order, CONSULTANT shall not rely on the terms of this Agreement in any way, including but not limited to any written or oral representations, assurances or warranties made by RTC or any of its agents, employees or affiliates, or on any dates of performance, deadlines, indemnities, or any term contained in this Agreement or otherwise.

ARTICLE 2 - SERVICES OF CONSULTANT

2.1. SCOPE OF SERVICES

The scope of services consist of the tasks set forth in Exhibit A.

2.2. SCHEDULE OF SERVICES

Tasks and subtasks shall be completed in accordance with the schedule in Exhibit B. Any change(s) to the schedule must be approved by RTC's Project Manager.

2.3. CONTINGENCY

Contingency line items identified in the scope of services are for miscellaneous increases within the scope of work. Prior to the use of any contingency amounts, CONSULTANT shall provide a letter to RTC's Project Manager detailing the need, scope, and not-to-exceed budget for the proposed work. Work to be paid for out of contingency shall proceed only with the RTC Project Manager's written approval.

2.4. OPTIONS

RTC shall have the right to exercise its option(s) for all or any part of the optional tasks or subtasks identified in Exhibit A. CONSULTANT will prepare and submit a detailed scope of services reflecting the specific optional services requested, a schedule for such services, and a cost proposal. RTC will review and approve the scope of services and RTC and CONSULTANT will discuss and agree upon compensation and a schedule. CONSULTANT shall undertake no work on any optional task without written notice to proceed with the performance of said task. RTC, at its sole option and discretion, may select another individual or firm to perform the optional tasks or subtasks identified in Exhibit A.

2.5. ADDITIONAL SERVICES

CONSULTANT will provide additional services when agreed to in writing by RTC and CONSULTANT.

2.6. PERFORMANCE REQUIREMENTS

Any and all design and engineering work furnished by CONSULTANT shall be performed by or under the supervision of persons licensed to practice architecture, engineering, or surveying (as applicable) in the State of Nevada, by personnel who are careful, skilled, experienced and competent in their respective trades or professions, who are professionally qualified to perform the work, and who shall assume professional responsibility for the accuracy and completeness of documents prepared or checked by them, in accordance with appropriate prevailing professional standards. Notwithstanding the provision of any

drawings, technical specifications, or other data by RTC, CONSULTANT shall have the responsibility of supplying all items and details required for the deliverables required hereunder.

Any sampling and materials testing shall be performed by an approved testing laboratory accredited by AASHTO or other ASTM recognized accrediting organization in the applicable test methods. If any geotechnical or materials testing is performed by a sub-consultant, that laboratory shall maintain the required certification. Proof of certification shall be provided to RTC with this Agreement. If certification expires or is removed during the term of this Agreement, CONSULTANT shall notify RTC immediately, and propose a remedy. If an acceptable remedy cannot be agreed upon by both parties, RTC may terminate this Agreement for default.

CONSULTANT shall provide only Nevada Alliance for Quality Transportation Construction (NAQTC) and/or American Concrete Institute (ACI) qualified personnel to perform field and laboratory sampling and testing during the term of this Agreement. All test reports shall be signed by a certified NAQTC or ACI (as applicable) tester and stamped, signed and dated by a Professional Engineer licensed in the State of Nevada.

2.7. ERRORS AND OMISSIONS

CONSULTANT shall, without additional compensation, correct or revise any deficiencies, errors, or omissions caused by CONSULTANT in its analysis, reports, and services. CONSULTANT also agrees that if any error or omission is found, CONSULTANT will expeditiously make the necessary correction, at no expense to RTC. If an error or omission was directly caused by RTC, and not by CONSULTANT and RTC requires that such error or omission be corrected, CONSULTANT may be compensated for such additional work.

ARTICLE 3 - COMPENSATION

3.1. CONSULTANT shall be paid for hours worked at the hourly rates and rates for testing in Exhibit B. RTC shall not be responsible for any other costs or expenses except as provided in Exhibit B.

3.2. The maximum amount payable to CONSULTANT to complete each task is equal to the not-to-exceed amounts identified in Exhibit B. CONSULTANT can request in writing that RTC's Project Manager reallocate not-to-exceed amounts between tasks. A request to reallocate not-to-exceed amounts must be accompanied with a revised fee schedule, and must be approved in writing by RTC's Project Manager prior to performance of the work. In no case shall CONSULTANT be compensated in excess of the following not-to exceed amounts:

Total Design Services (Task 2.1.A)	\$73,780
Total Construction Services (Tasks 2.1.C to 2.1.H)	\$813,710
<u>Contingency</u>	<u>\$40,000</u>
Total Not-to-Exceed Amount	\$927,490

- 3.3. For any work authorized under Section 2.5, "Additional Services," RTC and CONSULTANT will negotiate not-to-exceed amounts based on the standard hourly rates and rates for testing in Exhibit B. Any work authorized under Section 2.5, "Additional Services," when performed by persons who are not employees or individuals employed by affiliates of CONSULTANT, will be billed at a mutually agreed upon rate for such services, but not more than 105% of the amounts billed to CONSULTANT for such services.
- 3.4. CONSULTANT shall receive compensation for preparing for and/or appearing in any litigation at the request of RTC, except: (1) if such litigation costs are incurred by CONSULTANT in defending its work or services or those of any of its sub-consultants; or (2) as may be required by CONSULTANT's indemnification obligations. Compensation for litigation services requested by RTC shall be paid at a mutually agreed upon rate and/or at a reasonable rate for such services.

ARTICLE 4 - INVOICING

- 4.1. CONSULTANT shall submit monthly invoices in the format specified by RTC. Invoices must be submitted to accountspayable@rtcwashoe.com. RTC's payment terms are 30 days after the receipt of the invoice. Simple interest will be paid at the rate of half a percent (0.5%) per month on all invoices approved by RTC that are not paid within thirty (30) days of receipt of the invoice.
- 4.2. RTC shall notify CONSULTANT of any disagreement with any submitted invoice for consulting services within thirty (30) days of receipt of an invoice. Any amounts not in dispute shall be promptly paid by RTC.
- 4.3. CONSULTANT shall maintain complete records supporting every request for payment that may become due. Upon request, CONSULTANT shall produce all or a portion of its records and RTC shall have the right to inspect and copy such records.

ARTICLE 5 - ACCESS TO INFORMATION AND PROPERTY

- 5.1. Upon request and without cost to CONSULTANT, RTC will provide all pertinent information that is reasonably available to RTC including surveys, reports and any other data relative to design and construction.
- 5.2. RTC will provide access to and make all provisions for CONSULTANT to enter upon RTC facilities and public lands, as required for CONSULTANT to perform its work under this Agreement.

ARTICLE 6 - OWNERSHIP OF WORK

- 6.1. Plans, reports, studies, tracings, maps, software, electronic files, licenses, programs, equipment manuals, and databases and other documents or instruments of service prepared

or obtained by CONSULTANT in the course of performing work under this Agreement, shall be delivered to and become the property of RTC. Software already developed and purchased by CONSULTANT prior to the Agreement is excluded from this requirement. CONSULTANT and its sub-consultants shall convey and transfer all copyrightable interests, trademarks, licenses, and other intellectual property rights in such materials to RTC upon completion of all services under this Agreement and upon payment in full of all compensation due to CONSULTANT in accordance with the terms of this Agreement. Basic survey notes, sketches, charts, computations and similar data prepared or obtained by CONSULTANT under this Agreement shall, upon request, also be provided to RTC.

- 6.2. CONSULTANT represents that it has secured all necessary licenses, consents, or approvals to use the components of any intellectual property, including computer software, used in providing services under this Agreement, that it has full legal title to and the right to reproduce such materials, and that it has the right to convey such title and other necessary rights and interests to RTC.
- 6.3. CONSULTANT shall bear all costs arising from the use of patented, copyrighted, trade secret, or trademarked materials, equipment, devices, or processes used on or incorporated in the services and materials produced under this Agreement.
- 6.4. CONSULTANT agrees that all reports, communications, electronic files, databases, documents, and information that it obtains or prepares in connection with performing this Agreement shall be treated as confidential material and shall not be released or published without the prior written consent of RTC; provided, however, that CONSULTANT may refer to this scope of work in connection with its promotional literature in a professional and commercially reasonable manner. The provisions of this subsection shall not apply to information in whatever form that comes into the public domain. The provisions of this paragraph also shall not restrict CONSULTANT from giving notices required by law or complying with an order to provide information or data when such order is issued by a court, administrative agency, or other entity with proper jurisdiction, or if it is reasonably necessary for CONSULTANT to defend itself from any suit or claim.

ARTICLE 7 - TERMINATION

7.1. CONTRACT TERMINATION FOR DEFAULT

If CONSULTANT fails to perform services in the manner called for in this Agreement or if CONSULTANT fails to comply with any other provisions of this Agreement, RTC may terminate this Agreement for default. Termination shall be effected by serving a notice of termination on CONSULTANT setting forth the manner in which CONSULTANT is in default. CONSULTANT will only be paid the contract price for services delivered and accepted, or services performed in accordance with the manner of performance set forth in this Agreement.

If it is later determined by RTC that CONSULTANT had an excusable reason for not performing, such as a fire, flood, or events which are not the fault of or are beyond the

control of CONSULTANT, RTC, after setting up a new performance schedule, may allow CONSULTANT to continue work, or treat the termination as a termination for convenience.

7.2. CONTRACT TERMINATION FOR CONVENIENCE

RTC may terminate this Agreement, in whole or in part, at any time by written notice to CONSULTANT when it is in RTC's best interest. CONSULTANT shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. CONSULTANT shall promptly submit its termination claim to RTC to be paid CONSULTANT. If CONSULTANT has any property in its possession belonging to RTC, CONSULTANT will account for the same, and dispose of it in the manner RTC directs.

ARTICLE 8 - INSURANCE

- 8.1. CONSULTANT shall not commence any work or permit any employee/agent to commence any work until satisfactory proof has been submitted to RTC that all insurance requirements have been met.
- 8.2. In conjunction with the performance of the services/work required by the terms of this Agreement, CONSULTANT shall obtain all types and amounts of insurance set forth in Exhibit C, and shall comply with all provisions set forth therein.

ARTICLE 9 - HOLD HARMLESS

- 9.1. CONSULTANT's obligation under this provision is as set forth in Exhibit C. Said obligation would also extend to any liability of RTC resulting from any action to clear any lien and/or to recover for damage to RTC property.

ARTICLE 10 - EQUAL EMPLOYMENT OPPORTUNITY

- 10.1. During the performance of this Agreement, CONSULTANT agrees not to discriminate against any employee or applicant for employment because of race, color, religion, sex, age, disability, or national origin. CONSULTANT will take affirmative action to ensure that applicants are employed, and that employees are treated fairly during employment, without regard to their race, color, religion, sex, age, disability, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by RTC setting forth the provisions of this nondiscrimination clause.

- 10.2. CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of CONSULTANT, state that well qualified applicants will receive consideration of employment without regard to race, color, religion, sex, age, disability, or national origin.
- 10.3. CONSULTANT will cause the foregoing provisions to be inserted in all sub-agreements for any work covered by this Agreement so that such provisions will be binding upon each sub-consultant.

ARTICLE 11 - RESOLUTION OF CLAIMS AND DISPUTES

11.1. NEGOTIATED RESOLUTION

In the event that any dispute or claim arises under this Agreement, the parties shall timely cooperate and negotiate in good faith to resolve any such dispute or claim. Such cooperation shall include providing the other party with all information in order to properly evaluate the dispute or claim and making available the necessary personnel to discuss and make decisions relative to the dispute or claim.

11.2. MEDIATION

If the parties have been unable to reach an informal negotiated resolution to the dispute or claim within thirty (30) days following submission in writing of the dispute or claim to the other party, or such longer period of time as the parties may agree to in writing, either party may then request, in writing, that the dispute or claim be submitted to mediation (the "Mediation Notice"). After the other party's receipt or deemed receipt of the Mediation Notice, the parties shall endeavor to agree upon a mutually acceptable mediator, but if the parties have been unable to agree upon a mediator within ten (10) days following receipt of the Mediation Notice, then each party shall select a mediator and those two selected mediators shall select the mediator. A mediator selected by the parties' designated mediators shall meet the qualification set forth in as provided in Rule 4 of Part C., "Nevada Mediation Rules" of the "Rules Governing Alternative Dispute Resolutions adopted by the Nevada Supreme Court." Unless otherwise agreed to by the parties, in writing, the mediator shall have complete discretion over the conduct of the mediation proceeding. Unless otherwise agreed to by the parties, in writing, the mediation proceeding must take place within thirty (30) days following appointment of the mediator. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in Washoe County, Nevada, unless otherwise agreed to by the parties, in writing. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

11.3. LITIGATION

In the event that the parties are unable to settle and/or resolve the dispute or claim as provided above, then either party may proceed with litigation in the Second Judicial District Court of the State of Nevada, County of Washoe.

11.4. CONTINUING CONTRACT PERFORMANCE

During the pendency of any dispute or claim the parties shall proceed diligently with performance of this Agreement and such dispute or claim shall not constitute an excuse or defense for a party's nonperformance or delay.

ARTICLE 12 – PROJECT MANAGERS

- 12.1. RTC's Project Manager is Scott Gibson, P.E., or such other person as is later designated in writing by RTC. RTC's Project Manager has authority to act as RTC's representative with respect to the performance of this Agreement.
- 12.2. CONSULTANT' Project Manager is Alex Greenblat, P.E., or such other person as is later designated in writing by CONSULTANT. CONSULTANT's Project Manager has authority to act as CONSULTANT's representative with respect to the performance of this Agreement.

ARTICLE 13 - NOTICE

- 13.1. Notices required under this Agreement shall be given as follows:

RTC: Bill Thomas, AICP
Executive Director
Scott Gibson, P.E.
RTC Project Manager
Regional Transportation Commission
1105 Terminal Way
Reno, Nevada 89502
(775) 335-1874

CONSULTANT: Steven G. Moon, P.E.
Director, Construction Division
Alex Greenblat, P.E.
Lumos Senior Project Manager
Lumos & Associates, Inc.
9222 Prototype Drive
Reno, Nevada 89521
(775) 827-6111

ARTICLE 14 - DELAYS IN PERFORMANCE

- 14.1. TIME IS OF THE ESSENCE

It is understood and agreed that all times stated and referred to herein are of the essence. The period for performance may be extended by RTC's Executive Director pursuant to the

process specified herein. No extension of time shall be valid unless reduced to writing and signed by RTC's Executive Director.

14.2. UNAVOIDABLE DELAYS

If the timely completion of the services under this Agreement should be unavoidably delayed, RTC may extend the time for completion of this Agreement for not less than the number of days CONSULTANT was excusably delayed. A delay is unavoidable only if the delay is not reasonably expected to occur in connection with or during CONSULTANT's performance, is not caused directly or substantially by acts, omissions, negligence or mistakes of CONSULTANT, is substantial and in fact causes CONSULTANT to miss specified completion dates, and cannot adequately be guarded against by contractual or legal means.

14.3. NOTIFICATION OF DELAYS

CONSULTANT shall notify RTC as soon as CONSULTANT has knowledge that an event has occurred or otherwise becomes aware that CONSULTANT will be delayed in the completion of the work. Within ten (10) working days thereafter, CONSULTANT shall provide such notice to RTC, in writing, furnishing as much detail on the delay as possible and requesting an extension of time.

14.4. REQUEST FOR EXTENSION

Any request by CONSULTANT for an extension of time to complete the work under this Agreement shall be made in writing to RTC. CONSULTANT shall supply to RTC documentation to substantiate and justify the additional time needed to complete the work and shall provide a revised schedule. RTC shall provide CONSULTANT with notice of its decision within a reasonable time after receipt of a request.

ARTICLE 15 - GENERAL PROVISIONS

15.1. SUCCESSORS AND ASSIGNS

RTC and CONSULTANT bind themselves and their successors and assigns to the other party and to the successors and assigns of such party, with respect to the performance of all covenants of this Agreement. Except as set forth herein, neither RTC nor CONSULTANT shall assign or transfer interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating a personal liability on the part of any officer or agent or any public body which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than RTC and CONSULTANT.

15.2. NON TRANSFERABILITY

This Agreement is for CONSULTANT's professional services, and CONSULTANT's rights and obligations hereunder may not be assigned without the prior written consent of RTC.

15.3. SEVERABILITY

If any part, term, article, or provision of this Agreement is, by a court of competent jurisdiction, held to be illegal, void, or unenforceable, or to be in conflict with any law of the State of Nevada, the validity of the remaining provisions or portions of this Agreement are not affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular part, term, or provision held invalid.

15.4. RELATIONSHIP OF PARTIES

CONSULTANT is an independent contractor to RTC under this Agreement. Accordingly, CONSULTANT is not entitled to participate in any retirement, deferred compensation, health insurance plans or other benefits RTC provides to its employees. CONSULTANT shall be free to contract to provide similar services for others while it is under contract to RTC, so long as said services and advocacy are not in direct conflict, as determined by RTC, with services being provided by CONSULTANT to RTC.

15.5. WAIVER/BREACH

Any waiver or breach of a provision in this Agreement shall not be deemed a waiver of any other provision in this Agreement and no waiver is valid unless in writing and executed by the waiving party. An extension of the time for performance of any obligation or act shall not be deemed an extension of time for the performance of any other obligation or act. This Agreement inures to the benefit of and is binding upon the parties to this Agreement and their respective heirs, successors and assigns.

15.6. REGULATORY COMPLIANCE

A. CONSULTANT shall comply with all applicable federal, state and local government laws, regulations and ordinances. CONSULTANT shall be responsible for obtaining all necessary permits and licenses for performance of services under this Agreement. Upon request of RTC, CONSULTANT shall furnish RTC certificates of compliance with all such laws, orders and regulations.

B. CONSULTANT represents and warrants that none of the services to be rendered pursuant to this Agreement constitute the performance of public work, as that term is defined by Section 338.010(17) of the Nevada Revised Statutes. To the extent CONSULTANT does engage in such public work, CONSULTANT shall be responsible for paying the prevailing wage as required by Chapter 338 of the Nevada Revised Statutes.

15.7. EXCLUSIVE AGREEMENT

There are no verbal agreements, representations or understandings affecting this Agreement, and all negotiations, representations and undertakings are set forth herein with the understanding that this Agreement constitutes the entire understanding by and between the parties.

15.8. AMENDMENTS

No alteration, amendment or modification of this Agreement shall be effective unless it is in writing and signed by both parties.

15.9. CONTINUING OBLIGATION

CONSULTANT agrees that if, because of death or any other occurrence it becomes impossible for any principal or employee of CONSULTANT to render the services required under this Agreement, neither CONSULTANT nor the surviving principals shall be relieved of any obligation to render complete performance. However, in such event, RTC may terminate this Agreement if it considers the death or incapacity of such principal or employee to be a loss of such magnitude as to affect CONSULTANT's ability to satisfactorily complete the performance of this Agreement.

15.10. APPLICABLE LAW AND VENUE

The provisions of this Agreement shall be governed and construed in accordance with the laws of the State of Nevada. The exclusive venue and court for all lawsuits concerning this Agreement shall be the Second Judicial District Court of the State of Nevada, County of Washoe, and the parties hereto submit to the jurisdiction of that District Court.

15.11. ATTORNEYS' FEES

In the event of a dispute between the parties result in a proceeding in any Court of Nevada having jurisdiction, the prevailing party shall be entitled to an award of costs and any reasonable attorneys' fees.

15.12. CERTIFICATION REQUIRED BY NEVADA SENATE BILL 27 (2017)

CONSULTANT expressly certifies and agrees, as a material part of this Agreement, that it is not currently engaged in a boycott of Israel. CONSULTANT further agrees, as a material part of this Agreement, it will not engage in a boycott of Israel for the duration of this Agreement. If, at any time during the formation or duration of this Agreement, CONSULTANT is engaged or engages in a boycott of Israel, it will constitute a material breach of this Agreement.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement the day and year first above written.

REGIONAL TRANSPORTATION COMMISSION
OF WASHOE COUNTY

By: _____
Bill Thomas, AICP, Executive Director

LUMOS & ASSOCIATES, INC.

By: _____
Steven G. Moon, P.E., Director Construction Division

Exhibit A

Scope of Services

EXHIBIT A
SCOPE OF SERVICES
FOR THE
2023 PREVENTIVE MAINTENANCE PROJECT

NON-CONSTRUCTION SERVICES

2.1.A.2 Investigate Existing Conditions

Provide an existing conditions study for the proposed roadway sections located in the City of Reno, City of Sparks, and Washoe County (street lists provided by the agencies). This study shall include:

- Identify locations requiring asphalt patching
- Identify locations requiring crack sealing
- Recommendation of treatment required (i.e., Type 2, Type 3, Micro, Double Micro, Cape Seals, Fog Seals, etc.)
- Verification of street areas
- Verification of existing striping conditions
- Recommendations for striping modifications to meet MUTCD or local agency requirements
- Recommendations for striping modifications to accommodate pedestrian and bicycle improvements

CONSTRUCTION SERVICES

2.1.E. Administration

Provide contract administration services as follows:

- Attend the preconstruction conference and progress meetings at intervals determined by the RTC
- Perform construction coordination
- Review and provide recommendations on contractor's traffic control plans
- Review and stamp contractor's submittal for conformance to the contract documents
- Review and provide recommendations on test results
- Review and provide recommendations on contractor's construction schedule and work progress
- Review construction for acceptance and/or mitigation
- Provide verification and approval of contractor's monthly pay request
- Provide weekly electronic quantities
- Supervise the inspection and material testing activities
- Provide recommendations to the RTC for any necessary construction changes due to field conditions
- Assist in change order review and approval
- Provide final test results, field reports in an electronic .pdf on diskette

2.1.F-1. Survey/Data Collection/Layout/Design

Provide survey and design services as follows:

- Mapping of the proposed streets which will include GPS of the roadway areas, patch locations, islands, striping, utility valves, and manholes.
- AutoCAD drawings of the proposed streets showing areas to be slurred including slurry limits, patch locations, pavement striping, and locations of existing utility valves and manholes. Electronic copies to be provided.
- Slurry and patch quantities for each street
- Verification of existing striping, including striping quantities for each street.
- Striping maps which will include striping upgrades required to bring streets to current MUTCD or agency requirements.
- Preparation of bid documents to be placed on the RTC eBid web site.
- Up to ten (10) external storage devices (thumb drives) to be provided with the complete set of slurry, patching, and striping maps.

2.1.F-2. Striping Modification and Design

Provide Striping Plans for roadways designated to be modified from the original configuration.

- Provide recommendations for changes to existing roadways
- Provide 60% plans for agency review
- Incorporate review comments for 90% plans
- Provide 100% plans and striping layout for the contractor

2.1.G-1. Inspection - Patching

The following staffing shall be provided during asphalt patching placement:

- Provide Inspector(s) that have the appropriate certification required by the Nevada Alliance for Quality Transportation Construction (NAQTC). Provide one full time Senior inspector, ten (10) hour workdays for forty-five (45) shifts, for a total of 450 hours for the asphalt patching operations.

2.1.G-2. Inspection – Crack Seal

The following staffing shall be provided during pavement crack seal placement:

- Provide Inspector(s) that have the appropriate certification required by the Nevada Alliance for Quality Transportation Construction (NAQTC). Provide one full time Senior inspector, two (2) hour workdays for fifty-five (55) shifts, for a total of 110 hours for the pavement crack sealing operations.

2.1.G-3. Inspection – Slurry Seal

The following staffing shall be provided during slurry seal placement:

- Provide Inspector(s) that have the appropriate certification required by the Nevada Alliance for Quality Transportation Construction (NAQTC). Provide two full time Senior inspectors, ten (10) hour workdays for eighty-five (85) shifts, for a total of 1,700 hours for the slurry seal operations.

2.1.G-4. Inspection – Striping

The following staffing shall be provided during pavement striping placement:

- Provide Inspector(s) that have the appropriate certification required by the Nevada Alliance for Quality Transportation Construction (NAQTC). Provide one full time Senior inspector, ten (10) hour workdays for eighty-five (85) shifts, for a total of 850 hours for striping operations.

The inspectors will:

- Attend the preconstruction conference
- Monitor the work performed by the Contractor and verify that the work is in accordance with the plans and specifications
- Assist in problem resolution with the RTC, contractor personnel, utility agencies, the public and others
- Prepare daily inspection reports, submitted weekly to RTC and CC'd to the appropriate government jurisdiction(s).
- Provide quantity reports and assist in review of contractor's monthly progress payments
- Provide verification of the distribution of public relation notices required to be delivered by the contractor
- Assist in preparation of the Punch List

2.1.H. Materials Testing

Provide Material Testing for compliance with the specifications per the Standard Specifications for Public Works Construction, Revision 8 of the 2012 Edition (Orange Book) testing requirements.

The following tests and frequencies shall be performed:

- Provide Slurry Aggregate testing. Weekly aggregate testing will include: Sand Equivalent, Durability, and Sieve Analysis, including a 200 wash. A total of twenty (20) samples will be acquired and tested.
- Provide Slurry Emulsion testing. Partial emulsion testing will be completed in-house for Residue by Evaporation and Ring and Ball Softening Point as per the specified test method. Testing frequency shall be twenty (20) samples for the entire project.

- Provide On-site thin-lift Nuclear Gauge Testing and Sampling for asphalt concrete placement. Testing frequency shall be at random locations throughout the project.
- Provide AC Testing. Provide asphalt concrete tests at random locations throughout the project. Laboratory tests shall include ignition oven extraction, aggregate gradation, maximum theoretical specific gravity, flow & stability and Marshall unit weight. Six (6) – hot mix samples are anticipated. Reports will also include voids in total mix.
- Provide Asphalt Concrete Coring and Lab Testing. Lab test shall include core unit weight. Eighteen (18) – asphalt cores are anticipated. Test reports will also include percent compaction.

2.1.I. Project Contingency

This task is contingency for miscellaneous increases within the scope of this contract in the performance of services. If CONSULTANT determines that it is necessary to perform work to be paid out of contingency, CONSULTANT shall provide a letter detailing the need, scope, and not-to-exceed budget for any proposed work. Work under this task shall proceed only with the RTC Project Manager's prior written approval. This task may or may not be used at the sole discretion of the RTC.

KEY PERSONNEL

The key personnel assigned to this project include the following:

- Principal in Charge – Steven G. Moon, P.E.
- Project Manager – Alex Greenblat, P.E.
- Construction Project Coordinator – Brian Harer
- Geotechnical Engineer – Mitch Burns, P.E., CEM
- Survey Project Manager – John Gomez, P.L.S.

Exhibit B

Project Schedule and Compensation

EXHIBIT B-1

ID	Task Name	Duration	Start	Finish	Sep	4th Quarter		Nov	Dec	1st Quarter		Feb	Mar	2nd Quarter		May	Jun	3rd Quarter		Aug	Sep
					Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep					
1	Consultant Agreement to RTC Board	1 day	Fri 11/18/22	Fri 11/18/22				█													
2	Project Kickoff	1 day	Tue 11/29/22	Tue 11/29/22				█													
3	Initial Evaluations	4 wks	Wed 11/30/22	Tue 12/27/22				█	█	█	█										
4	Survey/Layout/Design	8 wks	Tue 12/27/22	Mon 2/20/23					█	█	█	█	█								
5	Construction Documents (90%)	8 wks	Tue 1/3/23	Mon 2/27/23					█	█	█	█	█								
6	Agency Review	3 wks	Mon 2/27/23	Fri 3/17/23								█	█	█							
7	Construction Documents (100%)	2 wks	Mon 3/20/23	Fri 3/31/23									█	█							
8	Advertise (Tentative)	3 wks	Thu 4/6/23	Wed 4/26/23										█	█	█					
9	Open Bids (Tentative)	1 day	Thu 4/27/23	Thu 4/27/23												█					
10	Notice to Proceed (Tentative)	1 day	Mon 5/15/23	Mon 5/15/23													█				
11	Construction (Tentative)	100 days	Mon 5/15/23	Fri 9/29/23																	█

Project: RTC 2023 PREVENTIVE MAINTENANCE PROJECT Date: 11/3/2022	Task		Inactive Task		Manual Summary Rollup		External Milestone	
	Split		Inactive Milestone		Manual Summary		Deadline	
	Milestone		Inactive Summary		Start-only		Progress	
	Summary		Manual Task		Finish-only		Manual Progress	
	Project Summary		Duration-only		External Tasks			

EXHIBIT "B-2"

**RTC OF WASHOE COUNTY
2023 Preventive Maintenance Project**

**JOB NO.: LA22.835
DATE: 11/3/2022**

BUDGET ESTIMATE

TASK	\$260 DIRECTOR	\$215 SR. PROJECT MANAGER	\$200 SURVEY PROJECT MANAGER	\$175 CONSTRUCTION SERVICES ENGINEER	\$150 STAFF SURVEYOR	\$125 ENGINEERING TECHNICIAN 2	\$135 SENIOR INSPECTOR	\$110 MATERIALS TECH 2	\$105 MATERIALS TECH 1	\$90 ADMINISTRATOR	TOTAL
2.1.A-2 Investigate Existing Conditions, 2024 P.M.	8.00	120.00	-	-	-	-	340.00	-	-	-	\$ 73,780.00
SUBTOTAL CE											\$ 73,780.00
2.1.E-I CONSTRUCTION SERVICES (150 Calendar Days)											
2.1.E Administration	10.00	180.00	-	-	-	80.00	-	-	-	80.00	\$ 58,500.00
2.1.F-1 Survey - Data Collection/Layout for 2023 P.M.	10.00	40.00	8.00	-	30.00	450.00	760.00	-	-	-	\$ 176,150.00
2.1.F-2 Survey - Striping Modification and Design											\$ 40,000.00
2.1.G-1 Inspection - Patching (45 W/D's @ 10 hrs/day) ⁽¹⁾	4.00	50.00	-	-	-	10.00	450.00	-	-	-	\$ 73,790.00
2.1.G-2 Inspection - Crack Seal Placement (55 W/D's @ 2hrs/day) ⁽²⁾	4.00	25.00	-	-	-	5.00	110.00	-	-	-	\$ 21,890.00
2.1.G-3 Inspection - Slurry Seal Placement (85 W/D's) ⁽³⁾	4.00	120.00	-	-	-	20.00	1,700.00	-	-	-	\$ 258,840.00
2.1.G-4 Inspection - Striping (85 W/D's) ⁽⁴⁾	4.00	120.00	-	-	-	20.00	850.00	-	-	-	\$ 144,090.00
2.1.H Testing				30.00				80.00			\$ 14,050.00
						Striping Plates	Slurry Agg Testing ⁽⁵⁾	Emulsion Testing ⁽⁵⁾	Marshall AC Testing ⁽⁵⁾	AC Coring ⁽⁵⁾	
Laboratory Testing \$						\$ 1,000.00	\$13,000.00	\$7,000.00	\$4,050.00	\$1,350.00	26,400.00
SUBTOTAL CM											813,710.00
2.1.I Project Contingency											\$ 40,000.00
GRAND TOTAL CE + CM											\$ 927,490.00

⁽¹⁾ Patching Inspection time based on one (1) inspector for 10 hours per day for 45 shifts of patching.

⁽²⁾ Crack Seal Inspection time based on one (1) inspector for 2 hours per day for 55 shifts of crack seal placement.

⁽³⁾ Slurry Inspection time based on two (2) inspectors, 10 hours per day for 85 shifts of Slurry.

⁽⁴⁾ Striping Inspection time based on one (1) inspector for 10 hours per day for 85 shifts of Striping placement.

⁽⁵⁾ See attached B-3 sheet for frequency of testing for asphalt concrete, slurry aggregates and emulsion.

⁽⁶⁾ Anticipated project budget as provided by RTC on October 20, 2022

Slurry Budget: \$ 7,500,000 ⁽⁶⁾
 CM Costs: 10.8% 11.8%
 Prelim/Design Costs: 1.0%



2023 PREVENTIVE MAINTENANCE MATERIAL TESTING

EXHIBIT "B-3" - Testing Fee Breakdown

Slurry Aggregates

Test	Unit Cost
Sand Equivalent	\$200.00
Durability	\$250.00
Sieve Analysis	\$200.00
	\$650.00
	per aggregate series
	(Total for 20 series)
	<u>\$13,000.00</u>

Emulsion Testing

Test	Unit Cost	# of Tests	Total
Residue Testing (in-house)	\$350.00	20	\$7,000.00
			<u>\$7,000.00</u>

Plantmix Testing

Test	Unit Cost	# of Tests	Total
Plantmix Series	\$675.00	6	\$4,050.00
Coring	\$75.00	18	\$1,350.00
			<u>\$5,400.00</u>

Engineering	Per Hour
Director	\$260
Group Manager	245
Senior Project Manager – Special Projects	245
Assistant / Project / Senior Project Manager	170/200/215
Staff / Project / Senior Hydrogeologist	175/185/190
Staff / Project / Senior Engineer	160/170/180
Assistant / Project / Senior Project Coordinator	125/150/160
Project / Senior Project Designer	135/145
Engineering Technician I / II	115/125
Support Technician	95
Construction	Per Hour
Director	\$260
Materials Engineering Manager	215
Assistant / Project / Senior Project Manager	170/200/215
Geotechnical Engineer	210
Construction Services Supervisor / Engineer	150/175
Assistant / Project / Senior Project Coordinator	125/150/160
Geotechnician	145
Inspector / Senior Inspector (includes nuclear gauge)	125/135
Engineering Technician I / II	115/125
Materials Technician I / II (includes nuclear gauge)	105/110
Surveying	Per Hour
Director	\$260
Group Manager	245
Assistant / Project / Senior Project Manager	170/200/215
Staff / Project / Senior Surveyor	150/165/175
Assistant / Project / Senior Project Coordinator	125/150/160
Photogrammetrist / Photogrammetry Manager	140/160
Surveying Technician I / II	115/125
Party Chief	165
Chain Person	80
Administrative & Other Services	Per Hour
Administrator	\$90
Clerical	80
30x42 Color / B&W (per copy)	10/5
24x36 Mylar / Color/B&W (per copy)	20/5/3
8.5x11 Color / B&W (per copy)	0.50/0.15
Mileage (per mile)	0.75

- Fees for prevailing wage rate projects available upon request.
- Map filing, checking, consulting, and other fees paid on behalf of the client shall be billed at cost plus fifteen percent (15%).
- Overtime hours will be billed at 1.5 times standard rate where applicable.
- Survey and Field crew billing rates include standard field survey equipment and truck up to 30 mile radius, after which mileage rates apply
- Fees for depositions and testimony will be billed at two (2) times the standard billing rates

Invoices are due upon receipt and considered to be past due after 30 days.
This fee schedule applies to services provided from January 1, 2022 until further notice.

Exhibit C

Indemnification and Insurance Requirements

INDEMNIFICATION AND INSURANCE REQUIREMENTS FOR
PROFESSIONAL SERVICE AGREEMENTS
[NRS 338 DESIGN PROFESSIONAL]

2022-07-08 Version

1. INTRODUCTION

IT IS HIGHLY RECOMMENDED THAT CONSULTANTS CONFER WITH THEIR INSURANCE CARRIERS OR BROKERS TO DETERMINE THE AVAILABILITY OF THESE INSURANCE CERTIFICATES AND ENDORSEMENTS IN ADVANCE OF PROPOSAL SUBMISSION. IF THERE ARE ANY QUESTIONS REGARDING THESE INSURANCE REQUIREMENTS, IT IS RECOMMENDED THAT THE AGENT/BROKER CONTACT RTC'S FINANCE DIRECTOR AT (775) 335-1845.

2. INDEMNIFICATION

CONSULTANT agrees, subject to the limitations in Nevada Revised Statutes Section 338.155, to save and hold harmless and fully indemnify RTC, Washoe County, City of Reno and City of Sparks including their elected officials, officers, employees, and agents (hereafter, "Indemnitees") from and against any and all claims, proceedings, actions, liability and damages, including reasonable attorneys' fees and defense costs incurred in any action or proceeding (collectively "Damages") arising out of the:

- A. Negligence, errors, omissions, recklessness or intentional misconduct of CONSULTANT or CONSULTANT's agents, employees, officers, directors, subconsultants, or anyone else for whom CONSULTANT may be legally responsible, which are based upon or arising out of the professional services of CONSULTANT; and
- B. Violation of law or any contractual provisions or any infringement related to trade names, licenses, franchises, patents or other means of protecting interests in products or inventions resulting from the use by the Indemnitees of any materials, devices, processes, equipment, or other deliverable (including software) supplied by CONSULTANT under or as a result of this Agreement, but excluding any violation or infringement resulting from the modification or alteration by the Indemnitees of any materials, devices, processes, equipment, or other deliverable (including software) not consented to by CONSULTANT.

CONSULTANT further agrees to defend, save and hold harmless and fully indemnify the Indemnitees from and against any and all Damages arising out the negligence, errors, omissions, recklessness or intentional misconduct of CONSULTANT or CONSULTANT's agents, employees, officers, directors, subconsultants, or anyone else for whom CONSULTANT may be legally responsible, which are not based upon or arising out of the professional services of CONSULTANT.

The Damages shall include, but are not limited to, those resulting from personal injury to any person, including bodily injury, sickness, disease or death and injury to real property or personal

property, tangible or intangible, and the loss of use of any of that property, whether or not it is physically injured.

If the Indemnitees are involved in defending actions of CONSULTANT or anyone else for whom CONSULTANT is legally responsible, CONSULTANT shall reimburse the Indemnitees for the time spent by such personnel at the rate of the Indemnitees pay or compensation for such services.

If an Indemnitee is found to be liable in the proceeding, then CONSULTANT'S obligation hereunder shall be limited to the proportional share of the liability attributed to CONSULTANT.

In determining whether a claim is subject to indemnification, the incident underlying the claim shall determine the nature of the claim.

In the event of a violation or an infringement under paragraph 2.B above and the use is enjoined, CONSULTANT, at its sole expense, shall either (1) secure for the Indemnitees the right to continue using the materials by suspension of any injunction or by procuring a license or licenses for the Indemnitees; or (2) modify the materials so that they become non-infringing. This covenant shall survive the termination of the Professional Services Agreement.

The provisions of this Agreement are separate and severable and it is the intent of the Parties hereto that in the event any provision of this Agreement should be determined by any court of competent jurisdiction to be void, voidable or too restrictive for any reason whatsoever, the remaining provisions of this Agreement shall remain valid and binding upon said Parties. It is also understood and agreed that in the event any provision should be considered, by any court of competent jurisdiction, to be void because it imposes a greater obligation on CONSULTANT than is permitted by law, such court may reduce and reform such provisions to limitations which are deemed reasonable and enforceable by said court.

3. GENERAL REQUIREMENTS

Prior to the start of any work on a RTC project, CONSULTANT shall purchase and maintain insurance of the types and limits as described below insuring against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by CONSULTANT, its subconsultants, or their employees, agents, or representatives. The cost of all such insurance shall be borne by CONSULTANT.

4. VERIFICATION OF COVERAGE

CONSULTANT shall furnish RTC with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth herein, on forms acceptable to RTC. All deductibles and self-insured retentions requiring RTC approval shall be shown on the certificate. All certificates and endorsements are to be addressed to RTC's Finance Director and be received by RTC before work commences. Upon request, CONSULTANT agrees that RTC has the right to review CONSULTANT'S and the Sub's insurance policies, or certified copies of the policies. Copies of applicable policy forms or endorsements confirming required additional insured, waiver of subrogation and notice of

cancellation provisions are required to be provided with any certificate(s) evidencing the required coverage.

5. NOTICE OF CANCELLATION

CONSULTANT or its insurers shall provide at least thirty (30) days' prior written notice to RTC prior to the cancellation or non-renewal of any insurance required under this Agreement. An exception may be included to provide at least ten (10) days' written notice if cancellation is due to non-payment of premium. CONSULTANT shall be responsible to provide prior written notice to RTC as soon as practicable upon receipt of any notice of cancellation, non-renewal, reduction in required limits or other material change in the insurance required under this Agreement.

6. SUBCONSULTANTS & SUBCONTRACTORS

CONSULTANT shall include all Subcontractors and Subconsultants (referred to collectively as "Subs") as insureds under its liability policies OR shall cause Subs employed by CONSULTANT to purchase and maintain separate liability coverages and limits of the types specified herein. If any Subs maintain separate liability coverages and limits, each shall include the RTC, Washoe County, City of Reno and City of Sparks as additional insureds under its commercial general liability policy, subject to the same requirements stated herein, without requiring a written contract or agreement between each of the additional insureds and any sub-consultant or sub-contractor. Any separate coverage limits of liability maintained by Subs shall be at least **\$1,000,000** per occurrence and at least **\$2,000,000** for any applicable coverage aggregates or the amount customarily carried by the Sub, whichever is GREATER. If any Subs provide their own insurance with limits less than required of the Contractor, Contractor shall include Subs in their coverage up to the full limits required of the Contractor. When requested by RTC, CONSULTANT shall furnish copies of certificates of insurance evidencing coverage for each subconsultant. CONSULTANT need not require its non-design subcontractors to carry Professional Errors and Omissions Liability insurance.

7. DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions that exceed \$25,000 per occurrence or claim must be declared to RTC's Finance Director prior to signing this Agreement. RTC is entitled to request and receive additional documentation, financial or otherwise, prior to giving its approval of the deductibles and self-insured retentions. Any changes to the deductibles or self-insured retentions made during the term of this Agreement or during the term of any policy must be declared to RTC's Finance Director prior to the change taking effect.

8. ACCEPTABILITY OF INSURERS

Required insurance is to be placed with insurers with a Best's rating of no less than A-VII and acceptable to RTC. RTC may accept coverage with carriers having lower Best's ratings upon review of financial information concerning CONSULTANT and the insurance carrier. RTC reserves the right to require that CONSULTANT'S insurer(s) be licensed and admitted in the State

of Nevada or meet any applicable state and federal laws and regulations for non-admitted insurance placements.

9. OTHER CONDITIONS

- A. Failure to furnish the required certificate(s) or failure to maintain the required insurance may result in termination of this Agreement at RTC's option.
- B. If CONSULTANT fails to furnish the required certificate or fails to maintain the required insurance as set forth herein, RTC shall have the right, but not the obligation, to purchase said insurance at CONSULTANT's expense.
- C. Any waiver of CONSULTANT's obligation to furnish such certificate or maintain such insurance must be in writing and signed by an authorized representative of RTC. Failure of RTC to demand such certificate or other evidence of full compliance with these insurance requirements or failure of RTC to identify a deficiency from evidence that is provided shall not be construed as a waiver of CONSULTANT's obligation to maintain such insurance, or as a waiver as to the enforcement of any of these provisions at a later date.
- D. By requiring insurance herein, RTC does not represent that coverage and limits will necessarily be adequate to protect CONSULTANT, and such coverage and limits shall not be deemed as a limitation on CONSULTANT's liability under the indemnities granted to RTC in this contract.
- E. If CONSULTANT'S liability policies do not contain the standard ISO separation of insureds condition, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

10. COMMERCIAL GENERAL LIABILITY

CONSULTANT shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than **\$2,000,000** each occurrence. If such CGL insurance contains a general aggregate limit, it shall be increased to equal twice the required occurrence limit or revised to apply separately to this project.

CGL insurance shall be written on ISO occurrence form CG 00 01 04 13 (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, products-completed operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

RTC and any other Indemnitees listed in Section 2. INDEMNIFICATION of this Agreement shall be included as an additional insured under the CGL, using ISO additional insured endorsement CG 20 10 07/04 or CG 20 33 07/04 or a substitute providing equivalent coverage, and under the commercial umbrella, if any.

This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to RTC or any other Indemnitees under this Agreement. CONSULTANT waives all rights against RTC and any other Indemnitees listed in section 2. INDEMNIFICATION of this Agreement for recovery of damages to the extent these damages are covered by the commercial general liability or commercial umbrella liability insurance maintained pursuant to this agreement. CONSULTANT's insurer shall endorse CGL policy to waive subrogation against RTC with respect to any loss paid under the policy.

11. COMMERCIAL AUTOMOBILE LIABILITY

CONSULTANT shall maintain automobile liability and, if necessary, commercial umbrella liability insurance with a limit of not less than **\$1,000,000** each accident. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos).

Coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 25, or a substitute form providing equivalent liability coverage for all owned, leased, hired (rented) and non-owned vehicles (as applicable). RTC may agree to accept auto liability for non-owned and hired (rented) vehicles under the CGL if CONSULTANT does not own or operate any owned or leased vehicles.

CONSULTANT waives all rights against RTC, its officers, employees and volunteers for recovery of damages to the extent these damages are covered by the automobile liability or commercial umbrella liability insurance obtained by CONSULTANT pursuant to this Agreement.

12. INDUSTRIAL (WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY) INSURANCE

It is understood and agreed that there shall be no Industrial (Worker's Compensation and Employer's Liability) Insurance coverage provided for CONSULTANT or any subconsultants by RTC. CONSULTANT, and any subconsultants, shall procure, pay for and maintain the required coverages.

CONSULTANT shall maintain workers' compensation and employer's liability insurance meeting the statutory requirements of the State of Nevada, including but not limited to NRS 616B.627 and NRS 617.210. The employer's liability limits shall not be less than **\$1,000,000** each accident for bodily injury by accident or **\$1,000,000** each employee for bodily injury by disease.

CONSULTANT shall provide a Final Certificate for itself and each subconsultant evidencing that CONSULTANT and each subconsultant maintained workers' compensation and employer's liability insurance throughout the entire course of the project.

If CONSULTANT, or any subconsultant is a sole proprietor, coverage for the sole proprietor must be purchased and evidence of coverage must appear on the Certificate of Insurance and Final Certificate.

CONSULTANT waives all rights against RTC, its elected officials, officers, employees and agents for recovery of damages to the extent these damages are covered by the workers compensation and employer's liability or commercial umbrella liability insurance obtained by Tenant pursuant to this agreement. CONSULTANT shall obtain an endorsement equivalent to WC 00 03 13 to affect this waiver.

13. PROFESSIONAL ERRORS AND OMISSIONS LIABILITY

CONSULTANT shall maintain professional liability insurance applying to liability for a professional error, omission, or negligent act arising out of the scope of CONSULTANT'S services provided under this Agreement with a limit of not less than **\$1,000,000** each claim and annual aggregate. CONSULTANT shall maintain professional liability insurance during the term of this Agreement and, if coverage is provided on a "claims made" or "claims made and reported" basis, shall maintain coverage or purchase an extended reporting period for a period of at least three (3) years following the termination of this Agreement.

14. NETWORK SECURITY AND PRIVACY LIABILITY

If CONSULTANT will have access to RTC computer or network systems for any reason and/or data including personal information (as defined in NRS 603A.040) or confidential information, CONSULTANT shall maintain network security and privacy liability insurance insuring against loss resulting from (1) privacy breaches [liability arising from the loss or disclosure of confidential information] (2) system breach (3) denial or loss of service (4) introduction, implantation, or spread of malicious software code (5) unauthorized access to or use of computer systems and (6) system failure. Coverage shall be provided with a limit of not less than **\$1,000,000** per claim and annual aggregate.

15. CRIME INSURANCE

If CONSULTANT will have care, custody or control of RTC money, securities or other property, CONSULTANT shall maintain crime insurance including coverage for the loss of money, securities and other property by employees or other parties with a limit not less than **\$1,000,000** per occurrence. Coverage shall be endorsed to include coverage for loss of RTC money, securities and other property in the care, custody or control of CONSULTANT.