



LAS VEGAS METROPOLITAN POLICE DEPARTMENT

CONSTRUCTION GENERAL CONDITIONS

Purchasing & Contracts Unit
400B S. Martin Luther King Blvd.
4TH Floor
Las Vegas, Nevada 89106-4372
Phone (702) 828-5788

GC.1 BONDS

- (a) *If awarded amount of the Contract is over \$100,000*, within the timeframe specified in the Instructions to Bidders – Project Specific - Required Submittals after the LVMPD's written request for bonds, Contractor shall furnish contract bonds to the Purchasing Representative on the bond forms provided by the LVMPD and attached to the Bid. The bonds are required by NRS 339 and cover the faithful performance of the Contract, payment of all obligations arising thereunder, and must be maintained for the entire term of the Contract. The award will become final after the Governing Body has authorized the award and the Contractor has submitted its required bonds utilizing the LVMPD's bond forms. The Contractor shall pay all premiums and costs of the bonds. The bonds required are:
1. Performance Bond – in the amount of 100% of the Contract price
 2. Labor and Material Payment Bond – in the amount of 100% of the Contract price
- (b) The bonds must be issued by a certified surety who is listed in the Department of Treasury, Fiscal Service (Department Circular 570, current revision) or companies holding certificates of authority as acceptable sureties on Federal bonds and as acceptable reinsuring companies. Sureties issuing bonds must be licensed by an appointed producer of insurance pursuant to NRS 683A. Bonds shall indicate the State of Nevada Insurance Division license number, surety company name, address, telephone number, and include the appointed agent of record who issued the bonds, his/her license number and issuing state. Surety bonds issued by an individual are not acceptable to LVMPD. The Contractor shall require the attorney-in-fact who executes the bonds on behalf of the surety to affix thereto a certified and current copy of their power of attorney.

GC.2 INSURANCE

- (a) Within the timeframe specified in the Instructions to Bidders – Project Specific - Required Submittals after notification of award by the LVMPD, the Contractor shall, at its own expense, procure and maintain during the entire term of the Contract, the insurance coverage specified in the Insurance Requirements Attachment, incorporated herein by reference, and as a condition precedent to receiving payments, provide proof of required coverage to LVMPD's third party insurance tracking provided as specified below. The Contractor shall comply with the terms and conditions set forth in the Insurance Requirements. Insurance certificates must be signed by a person authorized by that insurer and licensed by the State of Nevada.
- (b) Contractor must provide required insurance certificates and endorsements to the LVMPD within the specified time period after notification of selection. Award is conditional upon verification that all insurance requirements have been met. Acceptance of the insurance certificate(s) and award does not mean any requirements are waived, should it be determined later that the insurance is not compliant with the contract requirements. All required aggregate limits must be disclosed amounts entered on the certificate(s) of insurance. The certificates must identify the Contract number and the Contract description.
- (c) Contractor shall maintain coverage for the duration of this Contract, including any renewal periods if applicable. The Contractor shall annually provide the LVMPD with a certificate of insurance as evidence that all insurance requirements have been met. The Contractor shall provide the LVMPD with a 30 day advance notice of policy modification, cancellation or erosion of insurance limits, sent by certified mail "return receipt requested".
- (d) Submit certificate(s) of insurance to: purchasing@lvmpd.com with a copy to the applicable Purchasing Representative.
- (e) A certified, true and exact copy of each of the project-specific insurance policies (including renewal policies) required under this section shall be provided to LVMPD if requested.

GC.3 NOTICE TO PROCEED

One or more of the following Notice to Proceed notifications will be issued by the LVMPD Project Manager for the Project, as applicable:

(a) Notice to Proceed (for the work)

After receipt of all required post-bid bonds and proof of insurance, and any other required post-bid submittals, the Purchasing Representative will issue a Notice of Award which authorizes the Contractor to immediately execute the required contracts with equipment and material supplier(s), required Subcontractors, and apply for and obtain any necessary permits. LVMPD Facilities shall issue a Notice to Proceed to commence the work thereafter.

(b) Materials Notice to Proceed

If applicable, the Project Manager may issue a Materials Notice to Proceed to the Contractor authorizing the ordering of supplies, materials, equipment, etc. The notice will specify supplies, materials, equipment, etc. must be received within a specified number of days. During this period of time, the LVMPD may issue the Notice to Proceed for the work.

(c) Notice to Proceed (Administrative)

If applicable, the LVMPD may issue the Administrative Notice to Proceed upon execution of the Contract by all parties and after the Notice of Award from the Purchasing and Contracts Division has been issued. Administrative Notice to Proceed will allow the Contractor to attend weekly pre-construction meetings with the LVMPD and Architect, and prepare and process submittals, prepare and submit shop drawings, order materials, initiate background checks, submit badge applications, process Request for Information (RFI), and similar Administrative activities that do not involve mobilization or actual Construction. The Administrative Notice to Proceed will initiate the Contract Calendar for all measurement and tracking purposes. Submittals, supplies, material orders, equipment, and background investigation coordination must be completed within sixty (60) calendar days. During this time period, the LVMPD may issue the Notice to Proceed for the Work” but not before background investigations are complete.

(d) Structural Design Drawings

If applicable and upon LVMPD's request, Contractor shall submit the structural design drawings to LVMPD's Project Manager, within a mutually agreed upon time. LVMPD will review and respond in writing the approval and/or modifications as required. Upon the approval of the structural design drawings, the LVMPD will issue a Materials Notice to Proceed to the Contractor authoring the ordering of supplies, materials, equipment, etc. The Contractor, after ordering, shall notify the LVMPD's Project Manager of tentative delivery dates and again upon receipt of these items. The LVMPD may issue the Notice to Proceed for work within the delivery time agreed upon for materials.

GC.4 TIME – COMPLETION OF THE PROJECT

(a) Upon award, Contractor shall commence the work to be performed on the date set by the LVMPD's Project Manager in the written Notice to Proceed for the work, continuing the work in accordance with the approved schedule and shall complete the entire work within the Days specified in the Instructions to Bidders - Project Specific - Project Information after the Notice to Proceed date. Further, separable portions of the work may be subject to milestone or specific dates in accordance with these specifications. Any costs associated with the overtime, which may be required to complete the project in time, and/or milestones specified shall be solely the responsibility of the Contractor and shall have been included in the bid amount(s).

1. In addition, where applicable, reference to time shall be in accordance with Section 108, "Prosecution and Progress" of the Uniform Standard Specifications for Public Works construction Off-site Improvements, Clark County Area, Nevada, Third Edition, and revisions thereto.
2. The time specified above represents no overtime requirement. The scheduling of overtime for this Project is solely the responsibility of the contractor. The LVMPD is not responsible for any additional costs related to overtime work performed.

(b) The Contractor shall perform all work as may be necessary to complete the contract in a satisfactory and acceptable manner, and unless otherwise provided, shall furnish all transportation, materials, equipment, tools, labor or incidentals necessary to complete the work in the best possible and most expeditious manner.

(c) Time is of the essence and failure to meet the specified time to complete the work shall constitute a breach of the Contract and may result in termination of the Contract.

- (d) In case of failure on the part of the Contractor to complete the work within the time(s) specified in the Contract, or with such additional time(s) as may be granted by formal change order, or if the Contractor fails to perform the work, or any separable part thereof, with such diligence as will insure its completion within the time(s) specified in Instructions to Bidders - Project Specific - Project Information, or any extensions thereof, the Contractor will pay to the LVMPD if requested, the amount specified in Instructions to Bidders - Project Specific - Project Information until the work is complete, together with any increased costs incurred by the LVMPD because of the Contractor completing the work late.

GC.5 PRE-CONSTRUCTION CONFERENCE

- (a) A Pre-Construction Conference may be held after the award of the contract and the Contractor has submitted all post award submittals. The LVMPD's representative shall schedule this meeting.
- (b) The Contractor and all Subcontractors are required to attend the Pre-Construction Conference to discuss this project, requirements, and all associated required documents. The Notice to Proceed will not be issued until all parties involved in the project have completed and returned the required forms. The Contractor is responsible for attendance of all Subcontractors at the Pre-Construction Conference and their submission of the required forms.
- (c) The Contractor shall provide all submittals requested within the number of days specified in Instructions to Bidders - Project Specific - Project Information from the date of the Pre-Construction Conference.

GC.6 PERMITS AND FEES

The Contractor shall determine and secure and pay for all fees and permits which may include, but not be limited to the following: building permit; plan check fee; dust control permit; sanitation/sewer; storm water pollution, water; tortoise; and other permits, connection and governmental fees; licenses; and all special inspections necessary for proper execution and completion of the work, unless otherwise specified. Contractors shall direct questions to the designated contacts specified in the Instructions to Bidders.

GC.7 UTILITIES

The Contractor shall, at its expense, arrange for, develop and maintain all utilities in work areas to meet the requirements of the Contract. Such utilities shall be furnished by Contractor at no additional cost to the LVMPD, unless otherwise specified in the Instructions to Bidders - Project Specific.

GC.8 STANDARDS AND CODES

- (a) Wherever references are made in the Contract to standards or codes in accordance with which work is to be performed or tested, the edition or revision of the standards or codes current on the effective date of this Contract shall apply to the work of the project, unless otherwise expressly set forth. Unless otherwise specified, reference to such standards or codes is solely for implementation of the technical portions of such standards and codes.
- (b) Where applicable, reference to the Uniform Standard Specifications shall mean the Uniform Standard Specifications for Public Works Construction, Off-Site Improvements, Clark County Area, Nevada, Third Edition and revisions thereof, excluding Sections 102 and 103 of Division One, and/or the latest adopted Editions of the Uniform Building Code, Plumbing Code, Electrical Code, Fire Code, and Mechanical Code.
- (c) In case of conflict among any of the above referenced Specifications standards and codes, or between any referenced standards and codes and the Specifications, reference is made to Section 105, Subsection 105.04 of the Uniform Standard Specifications for Public Works Construction, Off-Site Improvements, Clark County Area, Nevada, Current Edition, and revisions thereto, unless otherwise specified in the General Conditions.

GC.9 TAXES

- (a) The LVMPD is a political subdivision of the State of Nevada and under the provisions of Nevada Revised Statute (NRS) 372.325 is exempt from the payment of Sales and Use Tax (Employee Identification Number 88-6000028). A copy of the tax exempt letter is available by calling the Purchasing & Contracts Unit at (702) 828-5788. The price(s) bid must be net, exclusive of these taxes.
- (b) Contractor shall pay all taxes, levies, duties and assessments of any nature that may be applicable to any work under this Contract. The contract amount and any approved change orders amounts shall include all taxes imposed by law. Contractor shall make any and all payroll deductions required by law. Contractor herein indemnifies and holds the LVMPD harmless from any liability regarding any and all such taxes, levies, duties, assessments and deductions.

GC.10 COLLECTION AND PAYMENT OF SALES TAX

In accordance with NRS 372.123, any Bidder that sells tangible personal property to any commercial business in the State of Nevada is required to possess a Nevada Sales Tax Permit and shall collect and pay the taxes as defined in NRS Chapters 372 and 374. Permit information can be obtained by contacting the Nevada State Department of Taxation at (702) 486-2300.

GC.11 ASSIGNMENT

- (a) After award, this Contract may not be assigned to any other person (or company) without the consent of the LVMPD.
- (b) After award, this Contract or any portion thereof may not be assigned to any person (or company) who was declared by the LVMPD to be a non-responsible person (or company) to perform the particular company.
- (c) The provisions of this section do not apply to the assignment of the Contract by virtue of the acquisition of the Successful Bidder by a person (or company) that purchases the full assets and liabilities of the Successful Bidder awarded the Contract.

GC.12 GOVERNING ORDER

- (a) The Bid Documents and Contract documents include various divisions, sections, and conditions which are essential parts for the work to be provided by Contractor. A requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for complete work. In case of discrepancy, the following precedence will govern:
 - 1. Permits required by law from other agencies
 - 2. Change orders, supplemental contracts and amended contracts
 - 3. Addenda
 - 4. Questions and Answers
 - 5. Instructions to Bidders – Project Specific
 - 6. Specifications
 - 7. Drawings
 - 8. Instructions to Bidders – General
 - 9. General Conditions
 - 10. Federal Requirements (*if applicable*)
 - 11. Uniform Standard Specifications for Public Works Construction Off-Site Improvements, Clark County Area, Nevada, current edition, and all revisions through the date of advertisement
 - 12. Uniform Standard Drawings for Public Works Construction Off-site Improvements, Clark County Area, Nevada, and all revisions through date of advertisement
- (b) Notwithstanding the above, if a permit provision conflicts with a provision in items 3-8, above, the more stringent provision controls.
- (c) Notwithstanding the above, a change order, supplemental agreement or amended agreement takes precedence over a more stringent permit if the permitting agency approves in writing.
- (d) Notwithstanding the above, in the event of a conflict between addenda, the more recent addenda controls.
- (e) Notwithstanding the above, approved revisions to contract drawings, specifications and drawings will take precedence over items 7, 8, 9 and 10 respectively. Detailed contract drawings shall have precedence over general plans.
- (f) The Contractor shall not take advantage of any apparent error or omission in the contract drawings or specifications. In the event the Contractor discovers such an error or omission, the Contractor shall immediately notify the LVMPD. The LVMPD will then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the plans and specifications.

- (g) Section 105.04 of the Uniform Standard Specifications for Public Works Construction Off-Site Improvements, Clark County Area, Nevada, current edition and all revisions through date of advertisement, does not apply to this Contract. That section is overridden, replaced and controlled by this section of this Contract.

GC.13 INDEMNITY

- (a) The Contractor agrees, by entering into this Contract, regardless of the coverage provided by any insurance policy, to pay all costs necessary to indemnify, defend, and hold LVMPD harmless from any and all claims, demands, actions, attorney's fees, costs, and expenses based upon or arising out of any acts, errors, omissions, fault or negligence of the Contractor or its principals, employees, Subcontractors or other agents while performing services under this Contract. The Contractor shall indemnify, defend, and hold harmless the LVMPD and any others specified as indemnified for any attorney's fees or other costs of defense, even if the allegations of the claim are groundless, false or fraudulent.
- (b) The Contractor also agrees this indemnity shall also cover additional agencies, companies and organizations listed in the Instructions to Bidders - Project Specific - Project Information, from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorney's fees, costs and expenses whatsoever of any kind or nature whether arising before or after completion of the work hereunder and in any manner directly and indirectly caused, occasioned or contributed to in whole or in part, by reason of any act, omission, fault or negligence whether active or passive by Contractor, or anyone contracted with or acting under its direction or control, or in its behalf in connection with or incident to the performance of this Contract.
- (c) Contractor's aforesaid indemnity and hold harmless obligations, or portions or applications thereof, shall apply even in the event of the fault or negligence, whether active or passive, of the parties indemnified or held harmless to the fullest extent permitted by law, but in no event shall they apply to liability caused by the willful misconduct of the parties indemnified or held harmless.
- (d) Contractor agrees to indemnify, defend, and hold harmless the LVMPD, its officers and employees, from any and all claims by Contractor's employees or its Subcontractors' employees, for work-related injuries arising out of the performance of the contract.

GC.14 PATENT INDEMNITY

- (a) Contractor hereby indemnifies and shall defend and hold harmless LVMPD, its officers, employees, agents and, if applicable, its managers, its officers, and employees, respectively, from and against all claims, losses, costs, damages, and expenses, including attorney's fees, incurred by LVMPD and its manager, respectively, as a result of or in connection with any claims or actions based upon infringement or alleged infringement of any patent and arising out of the use of the equipment or materials furnished under the Contract by Contractor, or out of the processes or actions employed by, or on behalf of Contractor in connection with the performance of the Contract. Contractor shall, at its sole expense, promptly defend against any such claim or action unless directed otherwise by LVMPD or its manager; provided that LVMPD shall have notified Contractor upon becoming aware of such claims or actions, and provided further that Contractor's aforementioned obligations shall not apply to equipment, materials, or processes furnished or specified by LVMPD or its manager.
- (b) Contractor shall have the right, in order to avoid such claims or actions, to substitute at its expense non infringing equipment, materials, or processes, or to modify such infringing equipment, materials and processes so they become non infringing, or obtain the necessary licenses to use the infringing equipment, material or processes, provided that such substituted and modified equipment, materials and processes shall meet all the requirements and be subject to all the provisions of this Contract.

GC.15 ADA REQUIREMENTS

All work performed or services rendered by the successful Contractor must comply with the Americans with Disabilities Act standards adopted by Clark County. All facilities built prior to January 26, 1992 must comply with the Uniform Federal Accessibility Standards; and all facilities completed after January 26, 1992 must comply with the Americans with Disabilities Act Accessibility Guidelines. It shall be the responsibility of the successful Contractor to advise the LVMPD should the LVMPD's requirements not meet the appropriate accessibility standards.

GC.16 AUDITS

The performance of this Contract by the Contractor is subject to review by the LVMPD to ensure Contract compliance. The Contractor agrees to provide the LVMPD any and all information requested that relates to the performance of this Contract. All requests for information will be in writing to the Contractor. Time is of the

essence during the audit process. Failure to provide the information requested within the timeline provided in the written information request may be considered a material breach of Contract and be cause for suspension and/or termination of the Contract.

GC.17 INVOICE AUDITS

The Contractor shall provide to the LVMPD, within 14 calendar days of the LVMPD's request, a report to validate that the price(s) charged are in accordance with the price(s) offered on the Contractor's Bid Form. The format of the report will depend on the pricing structure provided on the Bid Form. The report shall be subject to review and approval by the LVMPD's using department(s) and Internal Audit Department. Discrepancies found in the report will require the Contractor to update the report no later than seven calendar days after notification by the LVMPD. In the event that the Contractor overcharged the LVMPD, the Contractor shall reimburse the LVMPD within 14 calendar days. The LVMPD may declare the Contractor in breach of the Contract, terminate the Contract, and designate the Contractor as non-responsible if responding to future invitations to bid.

GC.18 PROFESSIONAL QUALITY

- (a) The Contractor shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by the Contractor, their principals, officers, employees, agents, Subcontractors and suppliers required to complete this Contract. In performing the specified services, Contractor shall follow practices consistent with generally accepted professional and technical standards.
- (b) It shall be the duty of the Contractor to assure that all products of its effort are technically sound and in conformance with all pertinent Federal, State and Local statutes, codes, ordinances, resolutions and other regulations. Contractor will not produce a work product that violates or infringes on any copyright or patent rights. The Contractor shall, without additional compensation, correct or revise any errors or omissions in its work products. Permitted or required approval by the LVMPD of any products or services furnished by Contractor shall not in any way relieve the Contractor of responsibility for the professional quality and technical accuracy and adequacy of its work.
- (c) The review comments of LVMPD's representative may be reported in writing as needed to Contractor. It is understood that LVMPD's review, oral comments, approval, acceptance, or payment for any of Contractor's services herein shall not be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and Contractor shall be and remain liable in accordance with the terms of this Contract and applicable law for all damages to LVMPD caused by Contractor's performance or failures to perform under this Contract.
- (d) Contractor shall appoint a qualified employee who will manage the performance of services, should this employee be unable to complete his or her responsibility for any reason, the Contractor will immediately replace him or her with a qualified person and inform the LVMPD in writing.
- (e) The Contractor agrees that its officers, employees, Subcontractors and suppliers will cooperate with the LVMPD in the performance of services under this Contract and will be available for consultation with LVMPD at such reasonable times with advance notice as to not conflict with their other responsibilities.
- (f) All products and services purchased under this Bid will be subject to inspections, tests and approval/acceptance by LVMPD. If specifications or warranties are not met, material and equipment will be rejected and replaced at Contractor's expense.

GC.19 SUBSTITUTIONS (OR EQUAL)

- (a) Prior to proposing any substitute material, product, or service, Contractor shall satisfy itself that the material, product, or service proposed is, in fact, equal to that specified. Contractor may only request a substitution if a material or product will fit into the space allocated, affords comparable ease of operations, maintenance and service, that the appearance, and longevity is equal to or better than the material or product specified; or that the substitution of such material, product, or service by reason of cost savings, reduced construction time, or similar demonstrable benefit will be in LVMPD's interest.
- (b) The burden of proof of equality of a proposed substitution for a specified material, product, or service shall be upon Contractor. Contractor shall support its request with sufficient test data and other means to permit LVMPD to make a fair and equitable decision on the merits of the proposal. Contractor shall submit drawings, samples, data and certificates for proposed substitute materials. Any material, product, or service by a manufacturer other than those specified or of brand name or model number or of generic species other than those specified will be considered a substitution. LVMPD will be the sole judge of whether or not the substitution is equal in quality, utility and economy to that specified.

- (c) Approval of a substitution shall not relieve the Contractor from responsibility for compliance with all requirements of the Contract. Contractor shall bear the expense for any changes in other parts of the work caused by any substitutions.
- (d) Materials, products or service proposed as substitutions for specified items shall be supported by certification of their approval for use by any or all governmental agencies having jurisdiction over use of the specific material, product or service.
- (e) Substitutions will not be permitted in those instances where the product is intended to accommodate artistic design, specific function or economy of maintenance.
- (f) Should the Contractor wish to use any material, product, or service other than those specified by brand or trade name, it shall, within 10 Days after award of the contract, submit to the Architect or Engineer, a written request for substitution accompanied by all data necessary for the Architect or Engineer to determine whether the requested substitution is equal to the specified material, product, or service. If the Contractor fails to submit written requests within 10 Days after the award of the contract, no substitutions will be allowed. The submission of a request to substitute a material, product, or service gives rise to no obligation on the part of the LVMPD to accept such substitute, or on the part of the Architect or Engineer to determine such substitute to be the equal of that specified.
- (g) The Architect or Engineer will have a reasonable amount of time to review requests for substitution and make a recommendation to the LVMPD. Should the substitute be acceptable to the LVMPD, an authorization will be written allowing the provision of the substitute material, product, or service. No substitution will be allowed which will increase the Contract amount.

GC.20 DELIVERY, UNLOADING AND STORAGE

Contractor shall receive, unload, store in a secure place, and deliver from storage to the construction site all materials and equipment required for the performance of the Contract. The storage facilities and methods of storing shall meet LVMPD's approval. Materials and equipment subject to degradation by exposure shall be stored in a suitable enclosure provided by Contractor.

GC.21 INVOICING

- (a) Invoices are to be sent within 30 Days of the completion of the work. Payment of invoices will be made within 30 Days, unless otherwise specified, after receipt of an accurate invoice that has been reviewed and approved by the applicable department's authorized representative.
- (b) In accordance with NRS 244.250, LVMPD shall not provide payment on any invoice Contractor submits after six months from the date Contractor performs services, provides deliverables, or milestones.
- (c) LVMPD offers electronic payment to all Contractors. Payments will be deposited directly into Contractor's bank account via the Automated Clearing House (ACH) network. Contractor will be provided information on how to enroll after award, upon request.
- (d) All invoices should include the following information:
 1. Company Name
 2. Complete Address (including street, city, state, and zip code)
 3. Telephone Number
 4. Contact Person
 5. LVMPD Purchase Order Number
 6. Contractor's Tax Identification Number
 7. Bid Number
 8. Itemized pricing (excluding Sales and Use Tax)
 9. Percentage Discounts / Payment Terms (if offered)
 10. Company's Invoice Number
 11. LVMPD Project Number(s)

Contractor is responsible to insure that all invoices submitted for payment are in strict accordance with the price(s) offered on the Bid line items. Invoices received without a valid purchase order number may be returned unpaid. If overcharges are found, the LVMPD may declare the Contractor in breach of the Contract, terminate the Contract, and designate the Contractor as non-responsible if responding to future invitations to bid. In addition, if overcharges are found, the Contractor will be notified and required to pay back the LVMPD the amount of overcharges.

GC.22 PAYMENT OF MATERIAL

- (a) At the discretion of the LVMPD, payment for materials on hand may be made when a paid invoice is presented to the Architect/Engineer for inclusion with the estimate, provided the materials meet the requirements of the plans and specifications, and are stored under acceptable storage conditions. Payment for materials on hand does not alter the responsibility of the Contractor for all materials until final acceptance of the work.
- (b) If items were "specially made" for the Project, payment based on the actual cost of supplies, materials and equipment on hand under this section shall be made by the LVMPD pursuant to NRS 338.515(2) with or without the paid invoice. "Actual cost" of materials shall be the invoice amount, whether paid or not, and shall not include any costs associated with installation, testing, etc. The Contractor shall be entitled to payment of the actual cost of supplies, materials and equipment only if it (1) presents an invoice to the LVMPD with the progress bill and, (2) states in the progress bill that the materials have been delivered and stored in the time and manner specified in the contract between the Contractor and its supplier or Subcontractor. If the Contractor fails to comply with those conditions, the LVMPD may decline payment in accordance with the provisions of NRS 338.525. The LVMPD expressly reserves the right to withhold retention until the Contractor presents to the LVMPD a paid invoice, or some other proof of payment satisfactory to the LVMPD, for the LVMPD's use in verifying the accuracy of the actual cost of the supplies, materials or equipment. If the amount paid does not match the actual cost, the LVMPD shall adjust the amount of retention accordingly. Payment for supplies, materials or equipment on hand does not alter the responsibility of the Contractor for all supplies, materials and equipment until final acceptance of the work. Items considered "special made" for this project are specified in the Instructions to Bidders - Project Specific - Project Information.
- (c) If materials are not specifically purchased for the work, but are taken from the Contractor's stock, then in lieu of invoices, there shall be submitted to the LVMPD statements accompanied by an affidavit of the Contractor, certifying such materials were taken from its stock and the price and transportation claimed represent the actual cost to the Contractor
- (d) It is understood and agreed that the transfer of title to and the LVMPD's payment of such stored or stockpiled material shall in no way relieve the Contractor of its responsibility for furnishing and placing such materials in accordance with the requirements of the Contract, plans, and specifications.

GC.23 WARRANTY

- (a) Unless otherwise provided elsewhere in the Contract, all materials and equipment incorporated into any work covered by the contract shall be new, and where grade is not specified, shall be of the most suitable grade of their respective kinds for their intended use, and all workmanship shall be in accordance with construction practices acceptable to LVMPD. Unless otherwise provided in the contract, Contractor warrants all equipment, materials, and labor furnished or performed under this contract against defects in design, materials (unless furnished by LVMPD), and workmanship for a period of **12 months** (unless longer guarantees or warranties are provided for in the contract in which case the longer periods of time shall prevail) from the date of Substantial Completion, regardless of whether the same were furnished or performed by Contractor or by any of its Subcontractors of any tier. Upon receipt of written notice from LVMPD of any defect in any such equipment, materials, or labor during the applicable warranty period, due to defective design, materials or workmanship, the affected item or parts thereof shall be redesigned, repaired or replaced by Contractor at a time acceptable to LVMPD.
- (b) Contractor shall perform such tests as LVMPD may require verifying that such redesign, repairs and replacements comply with the requirements of this Contract. All costs incidental to such redesign, repair, replacement and testing, including the removal of any barrier, necessary to gain access, shall be borne by Contractor.

- (c) Contractor warrants such redesigned, repaired or replaced work against defective design, materials and workmanship for a period of 12 months from and after date of acceptance thereof. Should Contractor fail to promptly make the necessary redesign, repair, replacement, and tests, LVMPD may perform or cause to be performed the same at Contractor's expense. Contractor and its surety or sureties shall be liable for the satisfaction and full performance of the warranties as set forth herein.
- (d) **Warranty Exclusions Prohibited.** The Owner will NOT accept any warranty clause from the manufacturer or Supplier, which states:
 - (i) That the warranty of merchantability and/or the warranty of fitness for a particular purpose is excluded from the offer to the Owner
 - (ii) That the manufacturer's and/or the Supplier's warranty clause is in lieu of all other warranties that are either expressed or implied.
- a. If any of the above warranty exclusions are submitted as part of the standard warranty by the Bidder or the Manufacturer, will not be considered exceptions to the Bid terms and conditions but will be disregarded as inadvertent submissions in error.
- b. In addition to the above restrictions, the warranty requirements of the Invitation to Bid shall exist in a direct extension from the manufacturer to the Owner as well as from the Supplier to the Owner if the items are sold by a distributor or agent.

GC.24 USE OF APPRENTICES *(Applies only to Projects which exceed \$100,000)*

- (a) During the Contract term, unless the use modification or waiver of the use of apprentices for a craft/trade was approved by the State of Nevada Labor Commissioner before the award of the Contract, Contractor and its subcontractors shall be compliant with NRS 338 in regards to the hiring of apprentices from a valid State of Nevada - Registered Apprenticeship Program (recognized by the State Apprenticeship Council) for the applicable type of construction (as defined in NRS 338.010):
 - Vertical Construction – One or more apprentices are used for at least 10% of total hours of labor worked for each apprenticed craft or type of work to be performed on the public work (for which more than 3 workers employed) on a public work; or
 - Horizontal Construction – One or more apprentices are used for at least 3% of total hours of labor worked for each apprenticed craft or type of work to be performed on the public work (for which more than 3 workers employed) on a public work;

If the required apprentice utilization for a craft or type of work is not achieved on a project, and modifications or waivers for the affected apprenticed craft or type of work have not been approved by the Labor Commissioner, after notice and an opportunity for a hearing, the Contractor may be subject to an administrative penalty of not more than \$5,000 imposed by the Labor Commissioner. The Labor Commissioner is required to report the violation to the Attorney General who may prosecute the person in accordance with the law.

- (b) Contractor shall provide an Apprenticeship Utilization Schedule at the Preconstruction Conference, which should reflect how and when it will achieve the apprentice percentage utilization required in (a) above (reflecting any approved modifications or waivers).
- (c) Contractor and its subcontractors must submit to the LVMPD (the method of submission is identified in the Instructions to Bidders – Project Specific - Project Information. documentation to verify apprentices are from a Registered Apprenticeship Program:
 - 1. Apprentice Agreement
 - 2. Certification (provided by Registered Apprenticeship Program)
- (d) If Contractor or any of its subcontractors will not be able to be compliant in regards to the utilization of apprentices required by NRS 338 with Good Cause, Contractor will submit the documentation (as specified in Instructions to Bidders – General Attachment, Section - Use of Apprentices, (a) and (b)) to the LVMPD to modify or waive the percentage of hours of labor provided by one or more apprentices, for the Contractor and any of the subcontractors, for each craft or type of work to be performed on the project. Good Cause means:

1. There are no apprentices available from an apprenticeship program within the jurisdiction where the public work is to be completed as recognized by the State Apprenticeship Council;
2. The Contractor or subcontractor is required to perform uniquely complex or hazardous tasks on the public work that require the skill and expertise of a greater percentage of journeymen; or
3. The Contractor or subcontractor has requested apprentices from an apprenticeship program and the request has been denied or the request has not been approved within 5 business days.

The term does not include the refusal of a contractor or subcontractor to enter into an apprenticeship agreement.

The supporting documentation will support the justification of one of the Good Cause situations as specified above. Documentation for the first two Good Cause situations must clearly demonstrate the requested Good Cause situation exists. Documentation for the last Good Cause situation will include the Request for Apprentice Availability on a Public Work form showing the Request Denied from EVERY valid State of Nevada - Registered Apprenticeship Program (recognized by the State Apprenticeship Council) for that apprenticed craft or type of work.

LVMPD will review the documentation submitted by the Bidder and if the requests and supporting documentation are found by LVMPD to sound reasonable and that the necessary due diligence has been completed by the Bidder, LVMPD will submit the Apprenticeship Utilization Act Waiver Request, and each Contractor/subcontractor's Request for Apprentice Availability on a Public Work form and supporting documentation for each craft or type of work to the State of Nevada Labor Commissioner for review and issuance of a determination of the waiver request. LVMPD is the sole determiner of reasonability as to whether to submit a waiver request to the State of Nevada Labor Commissioner for approval. The Labor Commissioner is the sole determiner if the Contractor or its subcontractors demonstrates Good Cause on its requests and supporting documentation and is approved to modify or waive the percentage of hours of labor provided by one or more apprentices for each craft or type of work to be performed on the project.

GC.25 PREVAILING WAGES (*Applies only to Projects which exceed \$100,000*)

- (a) *If the Contract amount is \$100,000 or less, prevailing wages do not apply to the Project.*
- (b) The Contractor and Subcontractors shall be bound by and comply with all federal, state and local laws with regard to minimum wages, overtime work, hiring and discrimination, including NRS 338.020 through 338.090. The Contractor shall ensure that all employees on the work are paid in accordance with the CURRENT PREVAILING WAGE RATES AS APPROVED BY THE STATE LABOR COMMISSIONER, whenever the actual value of the contract totals \$100,000 or more. Bidders are responsible to identify and use the correct prevailing wage rates, including any addenda, as well as all the forms needed to comply, as specified on the State of Nevada Labor Commissioner's web site: <http://www.laborcommissioner.com>, or by calling (702) 486-2650.
- (c) Per NAC 338.040, after a contract has been awarded, the prevailing rates of wages in effect at the time of the opening of bids remains in effect for the completion or termination of the contract or 36 months immediately following the Bid Opening date, whichever is earlier. If the contract is not completed or terminated within 36 months following the Bid Opening date, the prevailing wages in effect on the last day of the 36-month period must be paid for the immediately following 36 months. If the prevailing wages in effect on the last day of the 36-month period are lower than the prevailing wages paid during that 36-month period, the prevailing wages paid during that 36-month period must be paid for the immediately following 36 months. **Please note that if a change order causes a contract to exceed \$100,000, the LVMPD will audit the entire contract period.**
- (d) In accordance with NRS 338.013.3, the Contractor shall report to the Labor Commissioner and the LVMPD the name and address of each Subcontractor performing work on the project within 10 days after the Subcontractor commences work on the project and the identifying (PWP) number for the public work.
- (e) In accordance with NRS 338.060 and 338.070:
 1. A Contractor engaged on a public work shall forfeit, as a penalty to the public body on behalf of which the Contract has been made and awarded to the contractor not less than \$20 nor more than \$50 for each calendar day or portion thereof, that each worker employed on the public work is paid less than the designated rate for any work done under the contract, by the Contractor or any Subcontractor engaged on the public work.

2. A Contractor engaged on a public work shall forfeit, as a penalty to the public body on behalf of which the Contract has been made and awarded to the Contractor, not less than \$20 nor more than \$50 for each calendar day or portion thereof for each worker employed on the public work for which the Contractor or Subcontractor willfully included inaccurate or incomplete information in the monthly record required to be submitted to the public body pursuant to NRS 338.070.6.
 3. A Contractor engaged on a public work shall forfeit, as a penalty to the public body on behalf of which the Contract has been made and awarded to the contractor, not less than \$20 nor more than \$50 for each calendar day or portion thereof that each worker employed on the public work is not reported to the public body awarding the contract by the Contractor or any Subcontractor engaged on the public work as required pursuant to NRS 338.070.6, up to a maximum of:
 1. For the first failure to comply during the term of the Contract for the public work, \$1,000; and
 2. For each subsequent failure to comply during the term of the contract for the public work, \$5,000.
 4. If a violation of more than one provision of subsections 1, 2 and 3 above involves the same worker, the Contractor shall forfeit the penalty set forth in each subsection that was violated.
 5. If a penalty is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Labor Commissioner and the public body.
 6. The Labor Commissioner may, for good cause shown, waive or reduce any penalty imposed pursuant to this section.
- (f) Certified Payroll Reports: Pursuant to NRS 338.070, on any public work contract awarded for more than \$100,000, the Contractor and each Subcontractor are required to keep an accurate record showing the name, the occupation and the actual per diem wages and benefits paid to each workman employed by it in connection with the public work.
1. Each contractor and every lower-tier subcontractor will be required to submit certified payrolls and other labor compliance documentation. The method of submission is identified in the Instructions to Bidders – Project Specific - Project Information.
 2. This requirement will be 'flowed down' to every lower-tier subcontractor and supplier/vendor required to provide labor compliance documentation.
 3. The Contractor and each Subcontractor are required to submit a copy of the record for each calendar month to the Project Manager no later than **15 calendar days** after the end of the month for the purposes of public inspection. Contractor shall be responsible for coordinating the submittal of all the certified payroll reports for the project, including its reports and the reports of all the subcontractors who are performing work on the project. A Contractor shall not withhold from a subcontractor the sums necessary to cover any penalties withheld from the Contractor by the public body because the Contractor failed to submit certified payroll reports within 15 calendar days after the end of the month if the Subcontractor provided certified payroll reports to the Contractor within 10 calendar days after the end of the month or the date agreed upon by the Contractor and Subcontractor. The Contractor shall submit its certified payroll and the certified payroll of each of the subcontractors performing work on the project, utilizing paper copies.
 4. The Contractor and each Subcontractor must provide to the LVMPD any information to verify compliance with NRS 338.020 to 338.090 inclusive.
 5. Certified Payroll Reports will be available for public viewing. The Purchasing Representative may be contacted at (702) 828-5788 to view the reports.
- (g) *If this Project is Federally funded as specified in Instructions to Bidders - Project Specific, - Project Information*, paid under this contract shall conform with Davis-Bacon Act of March 3, 1931 as amended (46 Stat.1494, as amended, 40 U.S.C. 276a) as supplemented by Department of Labor Regulations (29-CFR, Part 1, 3 & 5). Where Nevada State Wage Rates and General Wage Rates are not equal, the Contractor will be required to pay the higher prevailing rate. Bidders are responsible to identify and use the correct prevailing wage rates, including any addenda, as specified in the General Wage Decision included in this bid document and as specified on the State of Nevada Labor Commissioner's web site: <http://www.laborcommissioner.com> or by calling (702) 486-2795. Per NAC 338.040, after a contract has been awarded, the prevailing rates of wages in effect at the time of the opening of bids remains in effect for the duration of the Project.

1. The Contractor and Subcontractors shall be bound by and comply with all federal, state and local laws with regard to minimum wages, overtime work, hiring and discrimination, including NRS 338.
2. The Contractor shall comply with the requirements of NRS 338.020 and post it in a generally visible place to the workmen, the applicable State/Federal wage decision.
3. The Contractor hereby agrees to forfeit as a penalty to the LVMPD, an amount as specified by the Nevada State Labor Commissioner for each workman employed, for each calendar day or portion thereof, that such workman is paid less than the designated rate for any works done under the contract, by their or any Subcontractor under them, pursuant to NRS 338.060.
4. The Contractor and each Subcontractor are required to submit a copy of their certified payroll reports weekly to the LVMPD for the purposes of public inspection. The method of submission is identified in the Instructions to Bidders – Project Specific I B - Project Information.

GC.26 LVMPD HOLIDAYS

(a) The Contractor is advised that the Las Vegas Metropolitan Police Department Legal Holidays observed are:

- Martin Luther King's Birthday
- Presidents' Day
- Memorial Day
- Juneteenth
- Independence Day
- Labor Day
- Nevada Admission Day
- Veteran's Day
- Thanksgiving Day and the Friday After
- Christmas Eve Day and Christmas Day
- New Year's Day

Contractor is required to verify dates with LVMPD's Project Manager prior to commencement of the Project.

GC.27 COPELAND ANTI-KICK BACK ACT

The Contractor shall comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874) as supplemented in the Department of Labor Regulations (29 CFR Part 3). This act provides that each Contractor or Subcontractor shall be prohibited from inducing by any means, any person employed in the construction, completion or repair of public work, to give up any part of the compensation to which it is otherwise entitled.

GC.28 EMPLOYMENT OF UNAUTHORIZED ALIENS

In accordance with the Immigration Reform and Control Act of 1986, the Contractor agrees that it will not employ unauthorized aliens in the performance of this Contract.

GC.29 NON-DISCRIMINATION

The LVMPD is committed to promoting full and equal business opportunities for all persons doing business in Southern Nevada. The Contractor acknowledges that the LVMPD has an obligation to ensure that public funds are not used to subsidize private discrimination. The Contractor recognizes that if they or their Subcontractors are found guilty by an appropriate authority of refusing to hire or do business with an individual or company due to reasons of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, national origin, or any other protected status, the LVMPD may declare the Contractor in breach of the Contract, terminate the Contract, and designate the Contractor as non-responsible if responding to future bids.

GC.30 FAIR EMPLOYMENT PRACTICES

In connection with the performance of work under this Contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation, gender identity or expression, or age, including, without limitation, with regard to 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, without limitation, apprenticeship.

The Contractor further agrees to insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

Any violation of this provision by a Contractor constitutes a material breach of Contract.

GC.31 PREFERENTIAL EMPLOYEMENT

Contractor and its Subcontractors shall comply with the preferential employment provisions of NRS 338.130 for public works contracts. This law requires that, when the qualifications of applicants are equal, that preference be given: First, to persons honorably discharged from the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States, a reserve component thereof or the National Guard and are citizens of the State of Nevada; second, to other citizens of the State of Nevada. If the provisions of NRS 338.130 are not complied with by the Contractor engaged on the public work, this Contract is void, and any failure or refusal to comply with any of the provisions of NRS 338.130 renders this Contract void.

Any Contractor engaged on a public work or any other person who violates any of the provisions of this section is guilty of a misdemeanor. The penalties provided for in this section do not apply where violations thereof are due to misrepresentations made by the employee or employees.

GC.32 SUBCONTRACTORS

- (a) Responsibility for Subcontractors: Contractor agrees that it will assume responsibility for acts or omissions of its Subcontractors and of persons either directly or indirectly employed by them, as they are responsible for the acts or omissions of persons directly employed by the Contractor. Nothing contained in the Contract shall create any contractual relationship between a Subcontractor or material supplier and the LVMPD. Approval by LVMPD of Contractor's request to subcontract or acceptance of or payment for subcontracted work by LVMPD shall not in any way relieve Contractor of responsibility for the professional and technical accuracy and adequacy of the work performed. Contractor shall be and remain liable for all damages to LVMPD caused by negligent performance or non-performance of services performed under the Contract by Contractor's Subcontractor. It is the Contractor's responsibility to ensure all subcontract agreements and material supply contracts comply with the terms and conditions set forth in this Contract and applicable statutes. If the Contractor submitted with its Bid a signed and notarized Affidavit Pertaining to Preference Eligibility, the Contractor must include in each contract between the Contractor and Subcontractor the apportionment of Bidder's Preference Liquidated Damages assessed.
- (b) Copies of Subcontractor Contracts: Per NRS 338.140.1.d, the Contractor agrees to provide, upon the LVMPD's request, copies of any or all contracts that it may have with its Subcontractor(s), to be used for:
 - 1. A determination of the price of additional work performed pursuant to a change order.
 - 2. An evaluation of claims for costs incurred for the performance of additional work;
 - 3. Preparation for litigation;
 - 4. A determination of the validity of the protest of a bid;
 - 5. A determination of the validity of an increase or decrease in the price of a contract in accordance with a provision in the contract which authorizes such an increase or decrease to correspond to changing market conditions; or
 - 6. Any combination thereof.
- (c) Subcontractor Substitutions: Pursuant to NRS 338.13895 and 338.145, a Subcontractor who is named in the Bid for the contract as a Subcontractor who will provide a portion of the work on the public work pursuant to NRS 338.141, and is not properly licensed for that portion of work, shall be deemed unacceptable and the Bidder / Contractor shall provide an acceptable Subcontractor, at no additional cost to the LVMPD.
 - 1. Contractor shall not substitute any person for itself or a Subcontractor who is named on the required list(s) except as provided pursuant to NRS 338.141.
 - 2. Contractor substitutes a Subcontractor for any Subcontractor who is named in the Bid without complying with the provisions of NRS 338.141; the Bidder / Contractor shall forfeit, as a penalty to the LVMPD, an amount equal to 1% of the total amount of the Contract.

3. Contractor indicated pursuant to NRS 338.141 that it would perform a portion of the work on the public work and, after the submission of the Bid, substitutes a Subcontractor to perform such work; the Bidder / Contractor shall forfeit as a penalty to the LVMPD the lesser of the following (excluding any amount of the Contract attributable to change orders):

- (a) An amount equal to 2.5% of the total amount of the Contract; or
- (b) An amount equal to 35% of the estimated by the engineer of the cost of the work the Contractor indicated pursuant to NRS 338.141 that it would perform on the public work.

GC.33 INDEPENDENT CONTRACTOR

- (a) Contractor represents that it is fully experienced and properly qualified to perform the class of work provided for herein, and that it is properly licensed, equipped, organized and financed to perform such work. Contractor shall act as an independent Contractor and not as the agent of LVMPD in performing the Contract. Contractor shall maintain complete control over its employees and all of its Subcontractors. Contractor has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons employed by Contractor in the performance of the services.
- (b) Contractor acknowledges that Contractor and any Subcontractors, agents or employees employed by Contractor shall not, under any circumstances, be considered employees of the LVMPD, and that they shall not be entitled to any of the benefits or rights afforded employees of LVMPD, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits. LVMPD will not provide or pay for any liability or medical insurance, retirement contributions or any other benefits for or on behalf of Contractor or any of its officers, employees or other agents.
- (c) Contractor shall be sole responsible for, and shall indemnify, defend, and hold LVMPD harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, demands, and regulations of any nature whatsoever.
- (d) Nothing contained in the Contract or any subcontract awarded by Contractor shall create any contractual relationship between any such Subcontractor and LVMPD.
- (e) Contractor shall perform all work in accordance with its own methods subject to compliance with the Contract.

GC.34 REPORTING OF ALLEGED VIOLATIONS OF THE LAW

The Contractor should have a written policy that protects employees from retaliation for reporting alleged violations of the law.

GC.35 LABOR STRIFE

The Contractor shall not cause or condone labor strife that may jeopardize the timely and efficient completion of public construction projects.

GC.36 MAINTENANCE AND INSPECTION OF RECORDS REGARDING EMPLOYEES

- (a) A Contractor and each Subcontractor engaged on the Project shall
 - 1. Inquire of each worker employed by the Contractor or Subcontractor
 - i. Whether the worker wishes to specify voluntarily his or her gender; and
 - ii. Whether the worker wishes to specify voluntarily his or her ethnicity; and
 - 2. For each response the Contractor or Subcontractor receives (pursuant to (a)):
 - i. If the worker chose voluntarily to specify his or her gender or ethnicity, or both, record the worker's responses; and
 - ii. If the worker declined to specify his or her gender or ethnicity, or both, record that the worker declined to specify such information.
 - 3. Contractor or Subcontractor shall not compel or coerce a worker to specify his or her gender or ethnicity and shall not penalize or otherwise take any adverse action against a worker who declines to specify his or her gender or ethnicity. Before inquiring as to whether a worker wishes to specify voluntarily his or her gender or ethnicity, the applicable Contractor or Subcontractor must inform the worker that such information, if provided, will be open to public inspection.
- (b) Contractor and each Subcontractor engaged on the Project shall keep or cause to be kept:

1. An accurate record showing, for each worker employed by the Contractor or Subcontractor in connection with the Project:
 - i. The name of the worker;
 - ii. The occupation of the worker;
 - iii. The gender of the worker, if the worker voluntarily agreed to specify that information pursuant to subsection (a) above, or an entry indicating that the worker declined to specify such information;
 - iv. The ethnicity of the worker, if the worker voluntarily agreed to specify that information pursuant to subsection (a) above, or an entry indicating that the worker declined to specify such information;
 - v. If the worker has a driver's license or identification card, an indication of the state or other jurisdiction that issued the license or card; and
 - vi. The actual per diem, wages and benefits paid to the worker.
2. An additional accurate record showing, for each worker employed by the Contractor or Subcontractor in connection with the Project who has a driver's license or identification card:
 - i. The name of the worker;
 - ii. The driver's license number or identification card number of the worker; and
 - iii. The state or other jurisdiction that issued the license or card.
3. Contractor and Subcontractor should use the Workers Employed Report (a) and Workers Employed Report (b) forms that were attached to the Bid for these reports. The Contractor or Subcontractor(s) engaged on the Project will ensure that a copy of each record for each calendar month is received by LVMPD no later than 15 days after the end of each month. The copy of the record associated with paragraph 1 above will be open to public inspection. The copy of the record associated with paragraph 2 above is confidential and not open to public inspection. A copy of the records of work performed on the Project by the Contractor and each Subcontractor shall be submitted to the LVMPD at the following address:

LVMPD
Facilities Unit
Attn: Facilities Manager
3141 Sunrise Avenue
Las Vegas, Nevada 89101-4833

Two years after Project's final payment is made by the LVMPD the records in LVMPD's possession may be destroyed.

GC.37 CONTRACTOR RECEIVING PREFERENCE

- (a) If the Contractor submitted a Certificate of Eligibility for Preference in Bidding with its Bid and within 2 hours after the completion of the bid opening of the Bid, Contractor submitted a signed and notarized Affidavit Pertaining to Preference Eligibility, the Contractor has certified that, for the duration of the Project, collectively, and not on any specific day:
 1. At least 50% of the workers employed on the Project including, without limitation, any employees of the Contractor and of any Subcontractor engage on the Project, will hold a valid driver's license or identification card issued by the Department of Motor Vehicles of the State of Nevada;
 2. All vehicle used primarily for the public work will be:
 - i. Registered and partially apportioned to Nevada pursuant to the International Registration Plan , as adopted by the Department of Motor Vehicles pursuant to NRS 706.826; or
 - ii. Registered in this State:

Each Contract between the Contractor and a Subcontractor must provide for the apportionment of liquidated damages to be assessed if a person other than the Contractor is responsible for a breach of the Affidavit. The apportionment of liquidated damages must be in proportion to the responsibility of each party for the breach.
 3. *If Project is awarded as a Construction Manager at Risk method*, at least 50% of the design professionals working on the Project will have a valid driver's license or identification card issued by the Department of Motor Vehicles of the State of Nevada; and

4. The Contractor and Any Subcontractor engaged on the Project will maintain and make available for inspection within this State its records concerning payroll relating to the Project.
- (b) If LVMPD receives a written objection from a person who believes that the Contractor has obtained a preference in bidding but has failed to comply with the requirements above, may file, before the substantial completion of the Project. LVMPD shall determine whether the objection is accompanied by the proof or substantiating evidence to support the belief of the person that the Contractor has failed to comply. A failure to comply with any requirement in paragraphs 1 to 4 above entitles LVMPD to a penalty only as follows:
1. LVMPD may recover, by civil action against the party responsible for a failure to comply with a requirement of paragraphs 1 to 4 above, a penalty as described below in subsection 2 for a failure to comply with a requirement of paragraphs 1 to 4 above. If LVMPD recovers a penalty pursuant to this subsection, the public body shall report to the State Contractors' Board the date of the failure to comply, the name of each entity which failed to comply and the cost of the contract to which the entity that failed to comply was a party. The Board shall maintain this information for not less than 6 years. Upon request, the Board shall provide this information to any public body or its authorized representative.
 2. If the Contractor submits the affidavit, receives a preference in bidding and is awarded the contract as a result of that preference, the Contract between the Contractor and LVMPD, each contract between the contractor and a subcontractor and each contract between a subcontractor and a lower tier subcontractor must provide that:
 - i. If a party to the Contract causes the Contractor to fail to comply with a requirement of paragraphs 1 to 4 above in (a), the party is liable to LVMPD for a penalty in the amount of 1% of the cost of the largest contract to which it is a party;
 - ii. The right to recover the amount determined in a. above by LVMPD may be enforced by the public body directly against the party that caused the failure to comply with a requirement of paragraphs 1 to 4 above in (a); and
 - iii. No other party to the contract is liable to the public body for a penalty.
- (c) If the Contractor submitted a Certificate of Eligibility for Preference in Bidding with its Bid and within 2 hours after the completion of the bid opening of the Bid, Contractor submitted a signed and notarized Affidavit Pertaining to Preference Eligibility, the Contractor must submit proof of compliance with this section:
1. Submit copies of the vehicle registration for all vehicles used primarily for the public work. For vehicles that are not registered in the State of Nevada, submit documentation confirming that the vehicle is registered and partially apportioned to Nevada pursuant to the International Registration Plan, as adopted by the DMV pursuant to NRS 706.826. The documentation required by this subparagraph shall be provided no later than 30 calendar days following the first use of a vehicle on the Site and shall be supplemented as necessary during the course of the work to comply with the requirements certified by the Affidavit. Attached is a sample form, Non-Apportioned Vehicle Report that may be used to submit the documentation.
 2. *If Project is awarded as a Construction Manager at Risk method*, submit an accurate record showing for each design professional employed by the Contractor or Subcontractor in connection with the Project:
 - i. The name of the design professional;
 - ii. The driver's license number or identification card number of the design professional; and
 - iii. The state or other jurisdiction that issued the license or card.

The documentation required by this subparagraph shall be provided no later than 30 calendar days of the first employment of the design professional and shall be supplemented as necessary during the course of the Work to comply with the requirements certified by the Affidavit. A report showing the information cumulative summary form shall be provided as a condition of Final Completion. The record maintained of this submitted information will remain confidential and not open to public inspection.

GC.38 RESPONSIBILITY FOR WORK SECURITY

- (a) Contractor shall at all times conduct all operations under the Contract in a manner to avoid the risk of loss, theft, or damage by vandalism, sabotage or damage of other means to any property. Contractor shall promptly take all reasonable precautions which are necessary and adequate against any conditions which

involve a risk of loss, theft or damage to its property, the LVMPD's property, and the work site. Contractor shall continuously inspect all its work, materials, equipment, and facilities to discover and determine any such conditions and shall be solely responsible for discovery, determination, and correction of any such conditions.

- (b) Contractor shall comply with all applicable laws and regulations. Contractor shall cooperate with LVMPD on all security matters and shall promptly comply with any project security requirements established by LVMPD. Such compliance with these security requirements shall not relieve Contractor of its responsibility for maintaining proper security for the above-noted items, nor shall it be construed as limiting in any manner Contractor's obligation to undertake reasonable action as required to establish and maintain secure conditions at the site.
- (c) Contractor shall prepare and maintain accurate reports of incidents of loss, theft or vandalism and shall furnish these reports to LVMPD in a timely manner.

GC.39 CONTRACTOR SITE RESPONSIBILITIES

- (a) Unless otherwise specifically provided in the Contract, Contractor shall not do any work that would disrupt or otherwise interfere with the operation of any pipeline, telephone, electric transmission line, ditch or other structure, nor enter upon lands in their natural state until approved by LVMPD. Before Contractor begins such work, it shall give due notice to LVMPD of its intention to start such work. Contractor shall not be entitled to any extension of time, or any extra compensation on account of any postponement, interference or delay caused by any such line, ditch or structure on or adjacent to the site of work.
- (b) Contractor shall preserve and protect all cultivated and planted areas, and vegetation such as trees, plants, shrubs and grass on or adjacent to the premises, which, as determined by LVMPD, do not unreasonably interfere with the performance of its work through operation of equipment or stockpiling of materials. All costs in connection with any repairs or restoration necessary or required by reason of any such damage shall be borne by Contractor.
- (c) LVMPD reserves the right to permit access to the site by other contractors if necessary. Contractor shall cooperate and coordinate with LVMPD as needed.

GC.40 CONSTRUCTION SAFETY

- (a) General: Neither the LVMPD nor its employees, agents, Architect/Engineer or construction management firm shall be responsible for safety on the project site, including but not limited to, providing or assuring a safe place for the performance of construction, methods of construction employed by any Contractor, Subcontractor, supplier or other entity, or their partners, officers, agents, employees or volunteers or access, visits, use work, travel or occupancy by any person.
 - 1. The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Contractor shall comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.
 - 2. In an emergency affecting the safety of life or of the Work or of adjoining property, the Contractor shall follow the instructions of the LVMPD or Consulting Architect or Engineer and, in the absence of such instruction, shall act at its discretion to prevent such threatened loss or injury.
- (b) Protection of Persons:
 - 1. The Contractor shall take all reasonable precautions for the safety of all employees on the Work and all other persons who may be affected thereby. The Contractor shall designate a responsible member of its organization at the Project site whose duty shall be prevention of accidents.
 - 2. Except as otherwise stated in the Contract Documents, if the Contractor encounters on the Project site material reasonably believed to be asbestos, lead, or polychlorinated biphenyl (PCB), that Contractor shall immediately stop work in the area affected and give notice to LVMPD and any other appropriate entity of the condition. Work in the affected area shall not be resumed without written direction by the LVMPD.
- (c) State of Nevada Division of Industrial Relations (*if applicable*)

1. The Regulations for the Nevada Occupational Safety and Health Administration Program, Chapter 618, requires that the general contractor, give written notice to the Nevada Occupational Safety and Health Administration Program (OSHA) before commencing construction on the project.
2. This written notice must be provided to the chief of the OSHA. The notice must include at least the following information: height, square footage, type of construction, total cost of construction, and the location of the project. The Contractor must provide this notice for each construction project that meets at least one of the following criteria:
 - i. A new or renovated building or structure that has a ground floor which is more than 30 feet above or below ground level;
 - ii. A new building or structure which has an initial construction cost of \$10,000,000 or more;
 - iii. A new building or structure which, when completed, will be 50,000 square feet or more; or
 - iv. A new building or structure which, when completed, will be more than 60 feet above the ground, excluding any antenna, smokestack, flagpole, or similar attachment.

Failure to notify OSHA of construction projects meeting one or more of the above criteria will result in a citation, with a monetary penalty, being issued.

3. The attached the "Regulated Construction Projects Notification Form" (3 pages) is for the Contractor to use in notifying OSHA of this Project. This form contains space for more information than what is required by Nevada Administrative Code 618.505; however, OSHA uses this information to determine whether an in-person preconstruction conference is necessary. Mail the completed form to OSHA at the address shown on the form.
4. In order to preclude adverse enforcement actions, please complete the attached form and return it to the address shown on the form. Upon receipt of your notification form, OSHA may contact the Contractor to schedule a preconstruction meeting. If you need any additional information regarding this notification requirement you can contact the Las Vegas OSHA office at (702) 486-9020 or the Reno OSHA office at (775) 688-1380.

GC.41 SITE CLEAN UP

- (a) Contractor shall, at all times, keep the work area in a neat, clean, and safe condition. Upon completion of any portion of the work, Contractor shall promptly remove all of its equipment, construction plant, temporary structures and surplus materials not to be used at or near the same location during later stages of work. Upon completion of the work and before final payment is made, Contractor shall, at its expense, satisfactorily dispose of all plant, buildings, rubbish, unused materials, and other equipment and materials belonging to it or used in the performance of the work, and Contractor shall leave the premises and work site in a neat, clean, and safe condition. In the event of Contractor's failure to comply with the above requirements may be accomplished by LVMPD at the Contractor's expense.
- (b) In the case of Public Works Off-Site Construction Reference to use of completed portions of the work, shall conform to Section 107 of the Uniform Standard Specifications for Public Works Construction, Off-Site Improvements, Clark County Area, Nevada, Third Edition, and revisions thereto.

GC.42 FIRE PREVENTION

- (a) Contractor shall comply with all Federal, State, and local laws and regulations pertaining to burning, fire prevention, and control within or adjacent to the project. Necessary precautions to avoid and eliminate fire hazards shall be the responsibility of the Contractor.
- (b) All tarpaulins used for any purpose during construction of any work shall be made of material resistant to fire, water, and weather and shall bear UL labels. Lighting of any fires on premises is strictly forbidden.
- (c) Contractor shall provide portable fire extinguishers compatible with the hazard of each work area and shall instruct its personnel in their location and use. Wherever welding and burning are conducted, inflammable materials shall be protected and a fire watch shall be provided by Contractor to be present during the burning and welding operation to ensure that protective measures are taken and no fires result from such operation. The fire watch shall have fire extinguisher equipment readily available and must be knowledgeable regarding proper use.

GC.43 CHANGE ORDERS

- (a) The Contractor shall comply with all provisions and conditions which are required by the Contract for change order(s) which increase the Contract amount. Contractor represents that change order(s) will include all related costs prior to presentation to the LVMPD for consideration. Retroactive change order(s) will be rejected. Work which is specifically required by the LVMPD or its representative, and which is in addition to work required by the Contract, will be charged against a formal change order executed by both parties. Then the work defined shall commence as directed by the LVMPD's representative. Change order(s) may not exceed the original Contract amount without prior approval by the Governing Body, with the following conditions:

The Contractor shall submit proposals and/or billings for materials and/or labor for all additional work requested on the following basis, and in all cases the Contractor shall conform to the following requirements, and costs shall be limited to those set forth below:

1. Products and Materials

- i. The costs of products and materials to the Contractor or Subcontractor, less any applicable trade discounts.
- ii. Where the Prime Contractor supplies products and materials to the LVMPD directly, the Prime Contractor will be allowed to add a maximum of 10 percent overhead and profit in its billing to the LVMPD.
- iii. Where the Subcontractor supplies products or materials to the LVMPD, through the Prime Contractor, the Prime Contractor will be allowed to add a maximum of 10 percent overhead and profit for the Subcontractor, and above that, five percent (5%) overhead and profit for itself in its billing to the LVMPD.
- iv. The LVMPD reserves the right to request copies of any invoice(s), including those from the originating supplier(s), Subcontractor(s), or manufacturer(s).
- v. No overhead and profit will be allowed on any applicable taxes.

2. Labor

- i. Where the Prime Contractor supplies labor to the LVMPD directly, the Prime Contractor will be allowed to add a maximum of 15 percent overhead and profit in its billing to the LVMPD.
- ii. Labor costs shall be in compliance with the prevailing wage rates as specified in the Prevailing Wages paragraph.
- iii. Where the Subcontractor supplies labor to the LVMPD, through the Prime Contractor, the Prime Contractor will be allowed to add a maximum of 15 percent overhead and profit for the Subcontractor; and above that, a maximum of 10 percent overhead and profit for itself in its billing to the LVMPD.
- iv. Labor costs shall be in compliance with the prevailing wage rates as specified in the Prevailing Wages paragraph.
- v. The LVMPD reserves the right to request copies of any invoice(s) or time sheet(s) relevant to labor charged.
- vi. Should a contract originally awarded for less than \$100,000 be increased over that amount through the issuance of change order(s), the Contractor shall then comply with all provisions and requirements of the Prevailing Wage Rates and represents that change order(s) will include labor and all related costs prior to presentation to the LVMPD for consideration. Retroactive change order(s) will be rejected.

GC.44 RELEASE OF RETENTION

- (a) Not more than 95 percent of the amount of any progress payment must be paid until 50 percent of the work required by the Contractor has been performed. The amount of retention with respect to progress payments shall be five percent (5%) until the work is 50 percent complete. After the work is 50 percent complete, no further amount shall be retained from future progress payments, provided Contractor is making satisfactory progress. In the event of unsatisfactory progress, LVMPD shall retain five percent (5%) from any progress payments. LVMPD, or LVMPD representative shall determine when the work is 50 percent complete.
- (b) The specified retention amount will be released following the LVMPD's issuance/approval of the Notice of Completion, provided that the following conditions are met:

1. All punch list items have been completed.
2. A Certificate of Occupancy or temporary Certificate of Occupancy has been received (if applicable).
3. Final record drawings and specifications have been submitted (if applicable).
4. No known premium delinquency exists with the Contractor's workers' compensation insurer.
5. All required documentation has been submitted to the LVMPD and no request has been made to the LVMPD by the Labor Commissioner, to hold retention.

The LVMPD may at its discretion, withhold only the estimated portion of the retention monies needed to finish any of the five uncompleted conditions as specified above, and only with written notice to the Contractor. The difference of the retention may then be paid.

GC.45 USE OF COMPLETED PORTIONS OF WORK

- (a) Whenever, as determined by LVMPD, any portion of work performed by Contractor is in a condition suitable for use, LVMPD may initiate a certificate of substantial completion for that portion and take possession of, or use such portion.
- (b) Such use by LVMPD shall in no case be construed as constituting final acceptance, and shall neither relieve Contractor of any of its responsibilities under the Contract, nor act as a waiver by LVMPD of any of the conditions thereof, provided that Contractor shall not be liable for the cost of repairs, rework or renewals which may be required due to ordinary wear and tear resulting from such use. However, if such use increases the cost, or delays the completion of remaining portions of work, Contractor shall be entitled to an equitable adjustment mutually agreed upon prior to LVMPD taking possession.
- (c) If, as a result of Contractor's failure to comply with the provisions of the Contract, such use proves to be unsatisfactory to LVMPD, LVMPD shall have the right to continue such use until such portion of work can, without injury to LVMPD, be taken out of service for correction of defects, errors, omissions, or replacement of unsatisfactory materials or equipment, as necessary for such work to comply with contract; provided that the period of such operation or use pending completion of appropriate remedial action shall not exceed 12 months, unless otherwise mutually agreed upon in writing between the parties.
- (d) Contractor shall not use any permanently installed equipment unless such use is approved by LVMPD in writing. Where Contractor's written request is granted for the use of certain equipment, Contractor shall properly use and maintain, and upon completion of its use, and at its expense, recondition such equipment to the satisfaction of LVMPD.
- (e) If LVMPD furnished an operator for such equipment, such operator's services shall be performed under the complete direction and control of Contractor and shall be considered Contractor's employee for all purposes other than the payment of such operator's wages, workers' compensation or other benefits paid directly or indirectly by LVMPD.
- (f) Use of completed portions of off-site improvements shall be done in accordance with Section 107 of the Uniform Standard Specifications for Public Works Construction, Off-Site Improvements, Clark County Area, Nevada, Third Edition, and revisions thereto.

GC.46 RECORD DRAWINGS AND SPECIFICATIONS

- (a) Progress Records: During construction, Contractor shall keep a marked-up, up-to-date set of drawings showing as-built conditions on the site as an accurate record of all deviations between work as shown and work as installed.
- (b) Final Records: When specified or required upon completion of work, Contractor shall furnish to LVMPD a complete set of marked-up as-builts with "RECORD" clearly printed on each sheet. LVMPD, at its expense, will furnish Contractor with drawings for mark-up by Contractor. Contractor shall accurately and neatly transfer all deviations from progress as-builts, to final as-builts. As an alternative, LVMPD Project may request that Contractor shall furnish to LVMPD final as-built records as specified in the attached Specifications.

GC.47 TESTING, INSPECTIONS AND FINAL ACCEPTANCE

- (a) When Contractor considers that all work under the Contract is complete, Contractor shall inform LVMPD in writing. When the results of inspection and testing satisfy LVMPD that all work under the Contract is completed and in accordance with the requirements of this Contract, LVMPD shall initiate the Notice of Completion process.
- (b) The date of final acceptance of the project shall be the date upon which the LVMPD accepts and issues a Notice of Completion for the project.
- (c) All warranties, guarantees and other applicable requirements designated in the Contract documents shall commence on the date of final acceptance of the project by the LVMPD as defined herein except that LVMPD, upon written request, may approve earlier commencement dates for system, equipment, or other specific items of work.

GC.48 CONTRACT TERMINATION

(a) Termination by the LVMPD for Cause

1. The LVMPD may terminate the Contract for Construction if the Contractor:
 - i. Fails to maintain Bonding, Nevada State Contractor's Board License, Worker's Compensation Insurance, insurance coverage for limits as defined in the contract documents; or
 - ii. Persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials; or
 - iii. Persistently disregards laws, ordinances, or rules, regulations or order of a public authority having jurisdiction; or
 - iv. Has otherwise materially breached the Contract.
2. When any of the above reasons exist, the LVMPD may without prejudice to any other rights or remedies of the LVMPD and after giving the Contractor and the Contractor's Surety, if any, **3 business days** advance written notice, terminate the contract with Contractor and may, subject to any prior rights of the Surety:
 - i. Take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
 - ii. Accept assignment of Subcontractors pursuant to this Contract (contingent assignment of subcontracts to LVMPD if Contract is terminated); and,
 - iii. Finish the work by whatever reasonable method the LVMPD may deem expedient.
3. When the LVMPD terminates the Contract for one of the reasons stated in this section "Termination by the LVMPD for Cause," the Contractor shall be entitled to receive payment only on work completed and accepted by LVMPD as of that termination date.
4. If the costs of finishing the work, including expenses made necessary thereby, exceed the Contract amount, the Contractor shall pay the difference to the LVMPD. The amount to be paid to the LVMPD shall survive Termination of the Contract.

(b) Suspension by the LVMPD for Convenience

1. The LVMPD may, without cause, order the Contractor in writing to suspend, delay or interrupt the work in whole or in part for such period of time as the LVMPD may determine.
2. An adjustment shall be made for increase in the cost of performance of the requirements of the Contract documents, including profit on the increased cost of performance, caused by suspension, delay or interruption. No adjustment shall be made to the extent:
 - i. That performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
 - ii. That an equitable adjustment is made or denied under another provision of the Contract.

Adjustments made in the cost of performance must have a mutually agreed upon fixed price.

(c) **Termination for Convenience by LVMPD**

Prior to, or during the performance of the work, the LVMPD reserves the right to terminate the contract for its convenience. Upon such an occurrence, the following procedures will be adhered to:

1. The LVMPD will immediately notify the Architect/Engineer and the Contractor in writing specifying the effective termination date of the Contract.
2. After receipt of the Notice of Termination, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due at the point in the Contract.
 - i. Stop all work.
 - ii. Place no further subcontracts or orders for materials or services.
 - iii. Terminate all subcontracts.
 - iv. Cancel all material and equipment orders.
 - v. Take action that is necessary to protect and preserve all property related to this Contract which is in the possession of the Contractor.
3. Within 180 days of the date of the Notice of Termination, the Contractor shall submit a final termination settlement proposal to the LVMPD based upon reasonable and verifiable labor and material costs incurred up to the date of termination, reasonable profit on verifiable work completed only, and reasonable mobilization and demobilization costs. The reasonableness of costs and profit will solely be the determination of LVMPD, which may include consultation with a consultant. Any materials that Contractor cannot cancel and billed to LVMPD shall be delivered to the construction site before payment. If the Contractor fails to submit the proposal within the time allowed, the LVMPD may determine the amount due to the Contractor because of the termination and shall pay the determined amount to the Contractor.

GC.49 DISPUTES

- (a) For each claim or dispute arising between the parties under this Contract, the parties shall attempt to resolve the matter through escalating levels of management.
- i. Initial Actions The parties shall first attempt to resolve the dispute informally in meetings or communications between the Contractor's Project Manager and the Owner's Project Manager. If the dispute remains unresolved 15 Days after it first arises, the Company may request that the Owner's Project Manager issue a recommended decision on the matter in dispute. The Owner's Project Manager shall issue the recommended decision in writing and provide a copy to the Company.
 - ii. Decisions The recommended decision of the Owner's Project Manager shall become final unless, within 15 Days of receipt of such recommended decision, the Company submits a written request for review to the Owner's Purchasing Manager. In connection with any such review, the Company and the Owner's Project Manager shall be afforded an opportunity to be heard and to offer evidence on the issues presented.
 - iii. Further Resolution If the dispute remains unresolved after review by the Owner's Purchasing Manager, Company and Owner shall promptly consult with one another and make diligent, good faith efforts to resolve the disagreement, by negotiation by individuals who were not directly involved in the drafting of the original Contract, preferably individuals in the C-Suite.
 - iv. Alternate Dispute Resolution Per NRS 338.150, if a dispute arising between the Owner and the Contractor cannot otherwise be settled, the use of a method of alternate dispute resolution is required before the initiation of a judicial action.
 - v. Requirement to Proceed Pending final resolution of a dispute under this section, the Company shall proceed diligently with performance in accordance with the Contract and the Project Manager's recommended decision, without prejudice to its position in the dispute.
- (b) If during the term of this Contract, there are any changes or new laws, ordinances, statutes, rules or regulations not known or foreseeable at the time of signing this Contract which become effective and which

affect the cost or time of performance of the Contract, the Company shall immediately notify the Owner in writing and submit detailed documentation of such effect in terms of both time and cost of performing the Contract. The Owner shall review the cost impact of such changes, and make an equitable adjustment in compensation for an increase or decrease in time, labor, materials and fees. If any discrepancy or inconsistency shall be discovered between this Contract and any law, ordinance, regulation, order or decree, Company shall immediately report the same in writing to Owner who will issue such instructions as may be necessary.

- (c) The laws of the State of Nevada shall govern this Contract and the venue for purposes of litigation shall be in a competent jurisdiction in Clark County, Nevada.
- (d) In the event the Contractor files a claim in District Court, pursuant to one or more provisions of NRS 338.640, and the LVMPD prevails in the Court's decision, then the Contractor shall pay the LVMPD's attorneys' fees. Further, Contractor acknowledges that NRS 338.640 is contained within Nevada's Prompt Pay Act and, thus, fee-shifting provisions apply only to actions involving ordinary progress payments, and not claims for additional compensation or additional days beyond this contract.

In all other civil actions (other than those claims associated with progress payments), the LVMPD, Contractor, and Subcontractors are responsible for their own attorney's fees and costs. LVMPD shall not be liable for fees or costs as an element of consequential damages.

- (e) All rights and remedies of LVMPD may be exercised, not exercised, waived, modified, limited or suspended by LVMPD in its sole discretion, and nothing in the Contract shall be deemed to require LVMPD to exercise its remedies in any order and in no event shall Company have any right (any such right that does exist being waived by Company) to require LVMPD to exhaust any or all of its rights or remedies prior to instituting other rights and remedies.

GC.50 FINAL RECORDS / AS-BUILT DRAWINGS

Final records / as-built drawings and related specifications shall become and remain the property of the LVMPD. Copies of the drawings and specifications retained by the LVMPD may be utilized only for its use and for occupying and maintaining the project for which they were prepared, and not for construction of any other project. A copy of all materials, information and documents, whether finished, unfinished, or draft, developed, prepared, completed, or acquired by Contractor during the performance of services for which it has been compensated under this Contract, shall be delivered to LVMPD's representative upon completion or termination of this Contract, whichever occurs first. LVMPD shall have the right to reproduce all non-copy write protected documentation supplied pursuant to this Contract.

GC.51 CLOSE OUT DOCUMENTATION

As a part of the required contract close-out documentation, the Contractor shall submit a Close-out Documentation Summary Report of Subcontractors listing the name of the Subcontractor, Bid item or work performed, the Business Enterprise Group (BEG), ethnicity status, and value of the contracts. The close-out document shall be submitted in a manner that substantially meets the format and content of the form attached hereto as Close-out Documentation Summary Report of Subcontractors.

GC.52 GOVERNING LAW/VENUE OF ACTION

The Contract shall be construed and enforced in accordance with the laws of the State of Nevada. Any action at law or other judicial proceeding for the enforcement of any provision shall be instituted in the County of Clark, State of Nevada.

GC.53 FEDERAL, STATE AND LOCAL LAWS

The Contractor is responsible to ensure compliance with all Federal, State and local laws relative to conducting business in Clark County, including without limitation, any applicable licensing requirements, labor and health laws, requirements for the payment of sales and use taxes on equipment, materials and supplies provided for the public work, and including NRS 338 as amended, if applicable. The laws of the State of Nevada will govern as to the interpretation, validity, and effect of this bid, its award, and any Contract entered into. Contractor is also responsible for all Subcontractors and any other person(s) compliance with this section who provide labor, equipment, materials, supplies or services for the public work and shall include this requirement in all its subcontracts.

GC.54 FORCE MAJEURE

The Successful Bidder shall be excused from performance hereunder during the time and to the extent that it is prevented from obtaining, delivering, or performing, by acts of God, fire, war, loss or shortage of transportation facilities, lockout, government regulations to the extent that such circumstance makes it illegal or impossible to perform, or commandeering of raw materials, products, plants or facilities by the government. The Successful Bidder shall provide LVMPD satisfactory evidence that non-performance is due to cause other than fault or negligence on its part.

GC.55 AUTHORITY

LVMPD is bound only by LVMPD agents acting within the actual scope of their authority. LVMPD is not bound by actions of one who has apparent authority to act for LVMPD. The acts of LVMPD agents which exceed their contracting authority do not bind LVMPD.

GC.56 PURCHASE ORDERS

The Purchasing Unit will issue a purchase order(s) which will authorize the Contractor to deliver and invoice for the product(s) and/or service(s) offered.

GC.57 INCONSISTENCIES IN CONDITIONS

In the event there are inconsistencies between the General Conditions and other bid terms or conditions contained herein, the former will take precedence.

GC.58 NON-ENDORSEMENT

As a result of the selection of Contractor to supply goods or services, LVMPD is neither endorsing nor suggesting that Contractor's service is the best or only solution. Contractor agrees to make no reference to LVMPD in any literature, promotional material, brochures, sales presentations, or the like, without the express written consent of LVMPD.

GC.59 PUBLIC RECORDS

The LVMPD is a Public Agency as defined by State Law, and as such, is subject to the Nevada Public Records Law (Chapter 239 of the Nevada Revised Statutes). Under the law, all of the LVMPD's records are public records (unless otherwise declared by law to be confidential) and are subject to inspection and copying by any person. However, in accordance with NRS 332.061 (2), a bid that requires negotiation or evaluation by the LVMPD may not be disclosed until the bid is recommended for award of a Contract.

GC.60 FISCAL FUNDING OUT

LVMPD reasonably believes that funds can be obtained sufficiently to make all payments during the term of this Contract. If LVMPD does not allocate funds to continue the purchase of the product and/or service, this Contract shall be terminated when appropriated funds expire.

GC.61 SEVERABILITY

If any terms or provisions of Contract shall be found to be illegal or unenforceable, then such term or provision shall be deemed stricken and the remaining portions of the Contract shall remain in full force and effect.

GC.62 TERMS OF PAYMENT

LVMPD's standard payment terms are 0%, Net 30 Calendar days. Bidder may offer discount payment terms in the Payment Terms Section on the Bid Form. Terms of payment, as listed on the Bid Form, shall be defined as the amount of discount offered by the Bidder to the LVMPD if payment is made within a specified timeframe.

Examples:

Terms of Payment: 2%, Net 30 Calendar Days.

2% payment discount will be deducted from the purchase price if the invoice is paid within thirty (30) calendar days of receipt of invoice or delivery of an acceptable product and/or service, whichever is later.

Note: Prompt payment discount terms of 30 calendar days or more will be considered by the LVMPD in the bid evaluation process.

LVMPD does not agree to the payment of late charges or finance charges assessed by the Supplier for any reason.

GC.63 ORGANIZATIONAL CONFLICT OF INTEREST

- (a) An Organizational Conflict of Interest (OCI) exists when a person or business entity has an unfair competitive advantage because of other activities or relationships with other persons. An OCI exists

when any of the following circumstances arise:

1. **Lack of Impartiality or Impaired Objectivity:** When the Contractor is unable, or potentially unable, to provide impartial and objective assistance or advice to the LVMPD due to other activities, relationships, contracts, or circumstances.
 2. **Unequal Access to Information:** The Contractor has an unfair competitive advantage through obtaining access to non-public information during the performance of an earlier contract.
 3. **Biased Ground Rules:** During the conduct of an earlier procurement, the Contractor has established the ground rules for a future procurement by developing the specifications, evaluation factors, or similar documents.
- (b) The Company warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances, which could give rise to an OCI and that it will not, by this Contract, participate in any activity which will give rise to an OCI for a future contract. The Company understands that, if after award, an OCI is discovered, an immediate and full disclosure in writing must be made to the LVMPD, which must include a description of the action, which the Company has taken to proposes to take to avoid or mitigate such conflicts. If an OCI is determined to exist, the LVMPD may, in its discretion, cancel the contract award. In the event the Company was aware of an OCI prior to the award of the Contract and did not disclose the conflict to the Purchasing Representative, the LVMPD may terminate the Contract for default. The provisions of this clause must be included in all subcontracts for work to be performed similar to the service provided by the Company, and the terms "contract", "Contractor", and "Purchasing Representative" modified approximately to preserve the LVMPD's rights.

GC.64 CONFLICT OF INTEREST

- (a) **Restriction on Participation**
No LVMPD officer, employee or member of the FAC, who is authorized in such capacity and on behalf of the LVMPD to participate in the selection, negotiation, making, accepting or approval, or take part in negotiating, making, accepting, or approving of this Contract, payments under this Contract, or work under this Contract, shall not be directly or indirectly interested personally in this Contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of, or for the LVMPD, who is authorized in such capacity and on behalf of the LVMPD to exercise any legislative, executive, supervisory or other similar functions in connection with this Contract, shall become directly or indirectly interested personally in this Contract or in any part hereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to this Contract.
- (b) **Gratuities Prohibited**
The LVMPD's officers, employees, and members of the FAC shall neither solicit, demand, nor accept from the Company, or any of its Subcontractors, any gifts, gratuities, favors or anything of monetary value. Each party represents that it is unaware of any financial or economic interest of any public officer or employee of the LVMPD relating to the award, modification or making of any determinations with respect to the performance of this Contract. Notwithstanding any other provision of this Contract, if such interest becomes known, the LVMPD may immediately terminate this Contract for default or convenience, based on the culpability of the parties.
- (c) **Interests Prohibited**
The Company covenants that itself, its principals, employees, and its Subcontractors presently have no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be provided under this Contract. The Company warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide permanent employees. For breach or violation of this warranty, the LVMPD shall have the right to annul this Contract without liability or in its discretion to deduct from the Contract price or consideration or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.
- (d) **Remedies and Penalties**
In the event this Contract is terminated as provided for in this section, the LVMPD shall be entitled:

- i. To pursue the same remedies against the Company as it could pursue in the event of a breach of this Contract by the Company;
- ii. As a penalty, in addition to any other damages to which the LVMPD may be entitled by law, to exemplary damages in an amount as determined by the LVMPD which shall not be less than three nor more than ten times the costs incurred by the Company in providing any such gratuities to any such officer or employee; and
- iii. The rights and remedies of the LVMPD provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under any other provision of this Contract.

GC.65 LVMPD STAFF COOPERATION

The LVMPD agrees that its officers, employees, and contracted firms will cooperate with Contractor in the performance of services under this Contract and will be available for consultation with Contractor at such reasonable times with advance notice as to not conflict with their other responsibilities and in accordance with the communication methodology defined by the LVMPD.

GC.66 UNSCHEDULED SITE VISITS

LVMPD staff, and/or their contracted staff may perform unscheduled site visits to validate that the workers performing the electrical and plumbing work are in compliance with requirements of the Building Administrative Code Chapter 22.2.

GC.67 SAFETY AND HEALTH CONDITIONS

Contractor shall be fully and solely responsible for safety and health conditions for conducting all operations under this contract and at all times in such a manner as to avoid the risk of endangerment to health, bodily harm to persons, and damage to property. Contractor shall continually and diligently inspect all equipment, materials and work to discover any conditions which might involve such risks and shall be solely responsible for discovery and correction of any such conditions Contractor shall furnish all safety equipment, supplies and instructions required for the work and enforce the proper use of such by its employees, agents, Subcontractors and any and all sub-tier levels and suppliers. Contractor shall notify the LVMPD in writing of the name of their assign employee responsible for safety and health including a twenty-four hour telephone number prior to commencement of work. Contractor shall comply with all requirements of Nevada Revised Statute Chapter 618, Occupational Safety and Health, Nevada Administrative Code Chapter 618 and have established an **active** Safety Program in accordance therewith.

GC.68 LVMPD SECURITY REQUIREMENTS

All Contractor's employees working on this Contract may be subject to LVMPD background checks and the collection of fingerprints. Anyone with a background history showing a conviction for a felony, theft history of any kind, sex offense history, or any crime involving moral turpitude, illegal drug or narcotics use, sale or possession, or anyone showing a felony charge pending, or who has any outstanding warrants of any type, including misdemeanor traffic or felony warrants, may be subject to arrest, and will not be allowed to work under this Contract.

Contractor shall be responsible for all personnel engaged in the work to ensure that said personnel comply with all security requirements imposed by LVMPD. It shall be Contractor's responsibility to ensure that all equipment and workmen do not enter LVMPD facilities except as required during the progress of the work. Contractor shall follow the directions given by LVMPD concerning the security policies, procedures, rules, regulations and methods of access and any other restrictions applicable to work within LVMPD facilities, or with LVMPD data and information.

(a) Listing of Personnel

Within five calendar days after written notification of award and before the Contract start date, Contractor shall provide LVMPD's Project Manager with the name, title, telephone number, and email of the Contractor's point of contact and a list of all personnel information who will be working on the Contract, including but not limited to, name, date of birth, social security number for each LVMPD, employee, officer or agent of the company.

(b) LVMPD Background Investigations, Fingerprinting and/or Contract Badges

For projects requiring Contractor(s) employees to obtain access to any LVMPD facilities (or database information), fingerprints will be required for NCIC background checks for all persons on the Contractor's List of Personnel who will be working on the LVMPD Contract, including Company LVMPD and all designated representative(s). Anyone with a background history showing a conviction for a felony, theft

history of any kind, sex offense history, or any crime involving moral turpitude, illegal drug or narcotics use, sale or possession, or anyone showing a felony charge pending, or who has any outstanding warrants of any type, including misdemeanor traffic or felony warrants may be denied entry into LVMPD facilities.

Contractor's designated representative or Company LVMPD shall personally obtain LVMPD non-gaming work card applications for each named employee.

Company(s) shall have each employee report to the LVMPD Records and Fingerprint Bureau (RFB) for the background investigation, taking of fingerprints and issuance of an LVMPD Contractor's badge. The LVMPD Records and Fingerprint Bureau is located at 400 S. Martin Luther King Blvd., C, 1st Floor, Las Vegas, Nevada 89106. Fingerprints and photo will be taken and submitted to the State of Nevada Criminal History Repository and the FBI.

Company will be responsible for the current cost (currently \$40.25) required by the State and FBI for fingerprints (which the LVMPD will collect on behalf of the State/FBI). Company must be aware that cost may be adjusted over the term of the contract and any renewal period(s). The LVMPD Contractor's badge is valid for only one year. Personnel must report to the LVMPD RFB for a background investigation and issuance of a new Contractor's Badge annually.

If the Company/contractor is outside the LVMPD jurisdiction, they must obtain fingerprints (two fingerprint cards) from a law enforcement agency within their jurisdiction and submit them to LVMPD by mail. Any cost associated with obtaining these prints from their local agency will be the responsibility of the company/contractor. Along with the fingerprints, the payment and completed application will be submitted together, prior to processing by LVMPD.

Personnel will not be permitted entry into any LVMPD facility without a valid Contractor's Badge.

If unescorted access is required, each employee issued a LVMPD Contract Badge must then report to the LVMPD Facilities Section at 3141 Sunrise Ave, telephone number (702) 828-3380 to obtain necessary building access cards.

LVMPD Contract Badge and access cards remain the property of LVMPD. Each is separately issued to an individual and cannot be shared or transferred. Misuse of identification and access cards may be cause for termination and Contract cancellation.

Failure to follow this procedure may result in termination of this Contract.

(c) Removal or Addition of Employee

Contractor agrees to work closely with LVMPD to ensure use of acceptable personnel. LVMPD reserves the right to request removal of any Contractor's employee for any reason or no reason, should such action be considered necessary to the best interests of the LVMPD. Contractor is permitted to add/replace personnel only after LVMPD is provided written notice and compliance with provisions in the General Conditions.

(d) Backup Staff

The Contractor shall provide sufficient backup staff to cover absenteeism or extend existing work force hours to compensate absent staff. The backup staff shall adhere to the same background and security screenings as regular staff. The LVMPD reserves the right to request additional backup staff if deemed necessary.

(e) Enforcement of Lock-Door Policy

All locked doors are to remain locked at all times and Contractor's employees are not allowed to open any doors for anyone.

GC.69 CONFIDENTIALITY AND SAFETY OF LVMPD PERSONNEL, VEHICLES AND EQUIPMENT

- (a) Contractor and all its personnel and subcontractors are required to keep all information concerning, including but not limited to, LVMPD personnel, vehicles, equipment, oral statements, computer files, databases, and other material or data confidential and privileged during and after the performance of this Contract. The Contractor shall have the right to use any such confidential information only for the purpose of providing the services under this Contract, unless the express, prior, written consent is obtained.
- (b) Any action taken or disclosure by the Contractor or its personnel and subcontractors to compromise or disseminate any confidential information related to or otherwise associated with LVMPD personnel, vehicles, equipment, oral statements, computer files, databases, and other material or data, without the

express prior written consent of the LVMPD, will be considered a breach of contract and may result in immediate termination of the contract and/or any fees incurred by LVMPD to correct the confidentiality breach shall be reimbursed by the Contractor within 30 days of notice. Actions or disclosure for LVMPD personnel and security comprise, or dissemination of information, including but not limited to, notifying any person by any means or posting on social media any identifying indicators, pictures or videos of LVMPD personnel; vehicle make, model, style, color, license plate number, VIN number, or any other means of identifying or compromising the safety of LVMPD personnel, vehicles, equipment, oral statements, computer files, databases, and other material or data.

- (c) The confidentiality requirements of oral statements, computer files, databases, and other material or data shall not apply where (i) the information is, at the time of disclosure by the LVMPD, then in the public domain or legally available as a public record; (ii) the information is known to the Contractor prior to obtaining the same from the LVMPD; (iii) the information is obtained by the Contractor from a third party who did not receive the same directly or indirectly from the LVMPD; or (iv) the information is subpoenaed by court order or other legal process, but in such event, the Contractor shall notify the LVMPD. In such event the LVMPD, in its sole discretion, may seek to quash such demand.
- (d) Upon request by the LVMPD, the Contractor shall promptly return to the LVMPD all confidential vehicles, equipment, oral statements, computer files, databases, and other material or data supplied by the LVMPD, together with all copies and extracts, as applicable.
- (e) The obligations of confidentiality shall survive the termination of this Contract.

GC.70 FEDERAL CONDITIONS

The following terms are incorporated herein by reference:

- (a) Pursuant to Appendix II to 2 code of Federal Regulations (CFR) Part 200, Contract Provisions for non-Federal Entity Contracts Under Federal Awards is incorporated into this Contract by reference, and orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the order is placed or upon delivery.
- (b) In addition, if using Subcontractors, pursuant to CFR Part 200.321, Bidder must take affirmative steps listed in that part (1) through (5) to encourage participation of SBE, MBE and WBE Subcontractors.