

AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is made and entered into this ____ day of _____, 2024, by and between the CITY OF RENO, hereinafter referred to as “CITY” and WSP USA INC., hereinafter referred to as “CONSULTANT.”

WITNESSETH

WHEREAS, the CITY wishes to secure construction management services for the Evans Creek Drive Culvert Replacement, hereinafter referred to as “PROJECT.”

NOW THEREFORE, the CITY and CONSULTANT agree as follows:

1. Objectives.

The CONSULTANT shall serve as the CITY’s consultant of record and shall give advice to the CITY during performance of services to which this Agreement applies. All services shall be performed by the Consultant.

2. Basic Services.

2.1 The CONSULTANT will perform the services described in Exhibit A which is incorporated herein by this reference as part of this agreement.

2.2 The CONSULTANT will not change its Project Manager without written approval from the CITY.

3. CITY Responsibility.

3.1 The CITY shall designate a Project Manager to act as the CITY’s representative with respect to the work performed under this Agreement.

3.2 The CITY shall give prompt written notice to the CONSULTANT whenever the CITY observes or otherwise becomes aware of a problem with the project.

4. Authorization, Progress and Completion.

By execution of this Agreement, the CITY grants to the CONSULTANT specific authorization to proceed, upon written notice, with the services described in Article 2 of this Agreement, and shall continue until completed.

5. Compensation.

5.1 Compensation for services performed as described in Article 2 shall be payable on a time and materials basis in the not-to-exceed amount of \$23,927.00 per Exhibit A.

5.2 Invoices for services rendered shall be submitted monthly. Payment by the CITY will be made within thirty (30) calendar days of receipt.

6. Special Services.

No additional services shall be performed and no additional compensation shall be permitted without a CITY approved written "Supplemental Agreement". **The supplemental agreement must be executed prior to the commencement or performance of any additional work by the City of Reno, City Council.**

7. Records to be Maintained by Consultant.

7.1 The CONSULTANT shall maintain records supporting requests for payment. Such records shall be available for inspection and audit by the CITY, and the CONSULTANT shall provide duplicate copies of all such records upon request by the CITY.

7.2 The information, conclusions and data generated during this Agreement by the CONSULTANT is for the exclusive use of the CITY. The CONSULTANT may not use this information, conclusions or data for any purpose other than to further the requirements of this Agreement. The CONSULTANT may not produce papers for professional journals or presentations for conferences without written permission and active participation by the CITY Project Manager.

8. Ownership of Documents.

Originals of all records, reports and other documents of service prepared by the CONSULTANT shall be property of the CITY. All said documents of service shall be made available to the CITY during the course of and for use in the performance of this Agreement.

9. Skill Level of Consultant.

Service performed by CONSULTANT will be conducted in a manner consistent with that level of care and skill ordinarily expected by members of the profession currently practicing in this area under similar conditions. CONSULTANT shall be responsible for the professional quality and technical accuracy of all services furnished by CONSULTANT.

10. Insurance.

10.1 General Requirements. The CITY requires that CONSULTANT purchase Industrial Insurance, General Liability, and CONSULTANT's Errors and Omissions Liability Insurance as described below against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the CONSULTANT, its agents, representatives, employees or subconsultants. The cost of such insurance shall be borne by CONSULTANT unless otherwise agreed.

10.2 Industrial Insurance. (Worker's Compensation & Employer's Liability). It is understood and agreed that there shall be no Industrial Insurance coverage provided for CONSULTANT or any Subconsultant by the CITY and in view of NRS 616B.627 and 617.210 requiring that CONSULTANT complies with the provisions of Chapters 616A to 616D, inclusive and 617 of NRS, CONSULTANT shall, before commencing work under the provision of this Agreement, furnish to the CITY a certificate of insurance from the Worker's Compensation Insurer certifying that the CONSULTANT and each Subconsultant have complied with the provisions of the Nevada Industrial Insurance Act, by providing coverage for each and every employee, subconsultants, and independent contractors. Should the CONSULTANT be self-insured for Industrial Insurance, the CONSULTANT shall so notify the CITY and approve written approval of such self-insurance prior to the signing of a Contract. The CITY reserves the right to accept or reject a self-insured CONSULTANT and to approve the amount(s) of any self-insured retentions. The CONSULTANT agrees that the CITY is entitled to obtain additional documentation, financial or otherwise, for review prior to entering into a Contract with the CONSULTANT.

Upon completion of the project, the contractor shall provide the CITY with a Final Certificate for itself and each Subconsultant which is prepared by the State of Nevada Industrial Insurance System. If the CONSULTANT or Subconsultants are unlicensed and are a sole proprietor, coverage for the sole proprietor must be purchased and evidence of coverage must appear on the Certificate of Insurance and Final Certificate.

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

10.3 Minimum Scope of Insurance. The following requirements apply.
Coverage shall be at least as broad as: *

Commercial General Liability at least as broad as Insurance Services Office Commercial General Liability Coverage "occurrence" form CG OO O1 04 13 or an equivalent form. The Comprehensive General Liability Coverage shall include, but is not limited to, liability coverage arising from premises, operations, independent contractors, products and completed operations, personal and advertising, injury, blanket contractual liability and broad form property damage.

Automobile Coverage at least as broad as Insurance Services Office Business Auto Coverage form CA OO 01 10 13 or an equivalent form covering Automobile Liability Symbol 1 "Any Auto". In lieu of a separate Business Auto Liability Policy, the City may agree to accept Auto Liability covered in the General Liability Policy, if non owned and hired auto liability are included. The CONSULTANT shall maintain limits of no less than \$1,000,000 or the amount customarily carried by the contractor, whichever is greater, combined single limit per accident for bodily injury and property damage. No aggregate limit may apply.

The Additional Insured Endorsements for General Liability shall be at least as broad as the unmodified ISO CG 20 10 04 13 and ISO CG 20 37 04 13 endorsements, or equivalent. The certificate shall confirm Excess Liability is following form.

*Coverages may be excluded only with prior approval of the CITY'S Risk Managers.

Professional Errors and Omissions Liability applying to all activities performed under this Agreement in a form acceptable to CITY. CONSULTANT will maintain professional liability insurance during the term of this Agreement and for a period of six (6) years from the date of substantial completion of the project unless waived by the CITY. In the event the CONSULTANT goes out of business during the term of this Agreement or the six (6) year period described above, CONSULTANT shall purchase Extended Reporting coverage for claims arising out of CONSULTANT's negligence acts, errors and omissions committed during the term of the Professional Liability Policy.

10.4 Minimum Limits of Insurance. CONSULTANT shall maintain limits no less than:

(a) General Liability: \$2million minimum or the amount customarily carried by the CONSULTANT, whichever is greater, combined single limit per occurrence for bodily injury, personal injury and property damage and \$4 million annual aggregate.

b) CONSULTANT's Errors and Omissions Liability: \$2 million per claim and \$4 million as an annual aggregate or the amount customarily carried by the CONSULTANT, whichever is greater during the term of this Agreement and for six years after the completion of the project, with each subsequent renewal having a retroactive date that predates the date of this Agreement. The CONSULTANT may purchase project insurance or obtain a rider on her

normal policy in an amount sufficient to bring CONSULTANT's coverage up to minimum requirements, said additional coverage to be obtained at no cost to the CITY. Should the CITY's Risk Manager require project insurance, project insurance shall be purchased and premium costs shall be borne by the CITY. CITY retains option to purchase project insurance through the CONSULTANT's insurer or through its own source.

10.5 Deductibles. Any deductibles or self-insured retentions must be declared to and approved by the CITY Risk Manager. The CITY reserves the right to request additional documentation, financial or otherwise prior to giving its approval of the deductibles or self-insured retention. Any changes to the deductible or self-insured retention made during the term of this Agreement or during the term of any policy, must be approved by the CITY Risk Manager.

10.6 Other Insurance Provisions. General Liability Coverages

The CITY, its officers, officials, employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the CONSULTANT including the insured's general supervision of the CONSULTANT; products and completed operations of the CONSULTANT; or premises owned, occupied or used by the CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to the CITY, its officers, officials, employees or volunteers.

The CONSULTANT's insurance coverage shall be primary insurance as respects the CITY, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it in any way.

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

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

Endorsements for General Liability, Auto, and Excess/Umbrella Liability listing all additional insureds are required. The endorsement for Excess/Umbrella Liability can be accomplished by the CONSULTANT'S production of a letter from the insurance company stating that Excess/Umbrella Liability will "follow form."

The CONSULTANT'S insurance coverage shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after at least thirty (30) days prior written notice for reasons other than non-payment of premium and at least ten (10) days for non-payment of premium, by certified mail, return receipt requested, has been given to the CITY.

10.7 Acceptability of Insurers. Insurance is to be placed with an A.M. Best and Company rating level of A - Class VII or better, or otherwise approved by the CITY in its sole discretion. CITY reserves the right to require that CONSULTANT'S insurer be a licensed and admitted insurer in the State of Nevada, or on the Insurance Commissioner's approved but not admitted lists.

10.8 Verification of Coverage. CONSULTANT shall furnish the CITY with certificates of insurance, including but not limited to the Certificate of Compliance in NRS 616B.627 and with original endorsements affecting coverage required by this article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf and must be countersigned by a duly appointed and licensed agent in this state. All approved deductibles and self-insured retentions shall be shown on the certificate. The certificates are to be on forms approved by the CITY. All certificate and endorsements are to be received and approved by the CITY before work commences. The CITY reserves the right to obtain copies of all required insurance policies.

10.9 Subconsultants. CONSULTANTS shall require all subconsultants to be insured on their own or under its policies and shall furnish separate certificates and endorsement for each subconsultant. Coverages for subconsultants shall be subjected to all of the requirements stated herein unless otherwise modified by the Risk Manager or City Attorney.

10.10 Miscellaneous Conditions. If the CONSULTANT or any Subconsultant fails to maintain any of the insurance coverages required, the CITY may terminate this Agreement for cause.

CONSULTANT shall be responsible for and remedy all damage or loss to any property, including property of CITY, caused in whole or in part by the CONSULTANT, any subconsultant, or any employee, directed or supervised by CONSULTANT, except damage of loss attributable to faulty drawings or specifications.

Nothing herein contained shall be construed as limiting in any way to the extent to which the CONSULTANT may be held responsible for payment for damages to persons or property resulting from her operations or the operations of any subconsultant.

If CONSULTANT's failure to maintain the required insurance coverage results in a breach of this Agreement, CITY may purchase the required coverage, and without further notice to CONSULTANT, deduct from sums due to CONSULTANT any premium cost advanced by CITY for such insurance.

11. Indemnification.

a. To the fullest extent permitted by law, the CONSULTANT shall defend, indemnify and hold harmless the CITY and its officers, employees and agents (collectively "Indemnitees") from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the CONSULTANT or the employees or agents of the CONSULTANT in the performance of this Agreement.

b. The CONSULTANT assumes no liability for the negligence or willful misconduct of any indemnitee or other consultants of indemnitee.

c. The CONSULTANT's indemnification obligations for claims involving "Professional Liability" (claims involving acts, error, or omissions in the rendering of professional services) and "Economic Loss Only" (claims involving economic loss which are not connected with bodily injury or physical damage to property) shall be limited to the proportionate extent of CONSULTANT's negligence or other breach of duty.

12. Intellectual Property Indemnity.

To the fullest extent permitted by law, CONSULTANT shall defend, protect, hold harmless, and indemnify CITY and the CITY related parties from and against any and all liability, loss, claims, demands, suits, costs, fees and expenses (including actual fees and expenses of attorneys, expert witnesses, and other consultants), by whomsoever brought or alleged, for infringement of patent rights, copyrights, or other intellectual property rights, except with respect to designs, processes or products of a particular manufacturer expressly required by CITY in writing. If CONSULTANT has reason to believe the use of a required design, process or product is an infringement of a patent, CONSULTANT shall be responsible for such loss

unless such information is promptly given to CITY. This Indemnity Covenant shall survive the termination of this Agreement.

13. Taxes.

CONSULTANT shall pay any and all Federal, State and local taxes, charges, fees, or contributions required by law to be paid with respect to CONSULTANT's performance of this Agreement (including, without limitation, unemployment insurance, social security, and income taxes).

14. Independent Contractor.

The parties agree that CONSULTANT is an independent contractor and this Agreement is entered into in conformance with the provisions of NRS 333.700. The parties agree that CONSULTANT is not a CITY employee and there shall be no:

- a. Withholding of income taxes by the CITY;
- b. Industrial insurance provided by the CITY;
- c. Participation in group insurance plans which may be available to employees of the CITY;
- d. Participation or contributions by either the independent contractor or CITY to any public employees' retirement system;
- e. Accumulation of vacation leave or sick leave;
- f. Unemployment compensation coverage provided by CITY if the requirements of NRS 612.085 for independent contractors are met.

15. Business License.

CONSULTANT shall maintain in full force and effect throughout the term of this Agreement a current business license from the City of Reno.

16. Compliance with Legal Obligations.

CONSULTANT is subject to NRS 338.010 – 338.090 (prevailing wage) for all covered work. CONSULTANT shall procure and maintain for the duration of this Agreement any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance law, or regulation to be held by CONSULTANT to provide the services required by this Agreement. CONSULTANT is solely responsible to pay assessments, premiums, permits and licenses required by law. Further, CONSULTANT agrees to comply with all applicable federal and state laws including, but not limited to, the Americans with

Disabilities Act of 1990 and related standards, guidelines, and regulations (collectively “ADA”) in providing the services identified in this Agreement. It is the responsibility of CONSULTANT to address in the performance of the services any and all access or other issues to assure compliance with the ADA.

17. Employment Opportunity.

CONSULTANT shall not discriminate against any employee or applicant for employment because of race, creed, color, national origin, religion, sex, gender identity, gender expression, veteran status, sexual orientation or age, or any other protected class status applicable under federal, state or local law, rule, or regulation. Sexual orientation means having or being perceived as having an orientation for heterosexuality, homosexuality or bi-sexuality. Race includes traits associated with race, including, without limitation, hair texture and protective hairstyles. Any violation of this provision by consultant shall constitute a material breach of contract.

18. Notices.

Any notices provided for herein shall be given in writing by certified mail, return receipt requested, or by personal service to:

CITY: City of Reno
Trina Magoon, P.E.
Director of Utility Services
If by personal service
1 East First Street. 7th Floor
Reno, NV 89501
If by mail
P.O. Box 1900
Reno, NV 89505

CONSULTANT: WSP USA Inc.
Syndi Dudley, Ph D, P.E.
Senior Vice President
300 S. 4th Street, Suite 1200
Las Vegas, NV 89101

19. Assignment.

This Agreement is binding on the heirs, successors, and assigns of the parties hereto. This Agreement is not to be assigned by either party without prior written consent of the other.

20. Integration.

This agreement represents the entire understanding of CITY and CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except by written amendment thereto signed by both parties.

21. Governing Law and Jurisdiction.

This Agreement shall be administered and interpreted under the laws of the State of Nevada. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in full force and effect. Any action at law, suit in equity or judicial proceeding for the enforcement of this Agreement or any provision thereof shall be instituted only in the district courts of the State of Nevada, County of Washoe.

22. Suspension of Work.

Either party may suspend, by written notice, all or a portion of the work under this Agreement, in the event unforeseeable circumstances, beyond the control of either party, make normal progress in the performance of the work impossible. The party desiring to suspend the work must request that the work be suspended by notifying the other party, in writing, of the circumstances which are interfering with normal progress of the work. The time for completion of the work shall be extended by the number of days the work is suspended. In the event that the period of suspension exceeds ninety (90) working days, the terms of this Agreement are subject to renegotiation and both parties are granted the option to terminate work on the suspended portion of the project in accordance to Article 23 of this Agreement.

23. Termination of Work.

The CITY may terminate, by written notice, the work under this Agreement. The CONSULTANT may terminate work in the event the CITY fails to perform in accordance with the provisions of this Agreement. Termination of this Agreement is accomplished by fifteen (15) working days prior written notice from the party initiating termination to the other. Notice of the termination shall be delivered by certified mail with receipt of delivery returned to the Sender. In the event of termination, the CONSULTANT shall perform such additional work, as is necessary for the ordinary filing of documents, and closing shall not exceed ten percent (10%) of the total time expended on the termination portion of the project prior to the effective date of termination. The

CONSULTANT shall be compensated for the terminated portion of the work on the basis of work actually performed prior to the effective date of termination, plus the work required for filing and closing. Charges for the latter work are subject to the ten percent (10%) limitation described in this Article.

CONSULTANT expressly agrees that this Agreement shall be terminated immediately if for any reason local, federal and/or State Legislature funding ability to satisfy this Agreement is withdrawn, limited, or impaired.

24. Dispute Resolution.

All claims, counterclaims, disputes and other matters in question between the CITY and the CONSULTANT arising out of, or relating to, this contract or breach of it, unless otherwise settled, may be mediated before initiation of a judicial action.

Unless the parties mutually agree otherwise, mediation will be in accordance with the Commercial Mediation Procedures of the American Arbitration Association currently in effect. The American Arbitration Association will not be used to administer or facilitate the process or the selection of the mediators. Instead, the parties will attempt to mutually agree to the appointment of one mediator. If the parties cannot agree to one mediator, each party shall select one mediator and the two mediators will appoint a third mediator. The parties agree to split the mediator(s) fees and expenses. Each party shall bear their own attorney's fees and other costs incurred for the mediation.

25. Attorneys' fees.

If either party breaches this Agreement, the prevailing party in any litigation is entitled to recover its court costs and reasonable attorneys' fees.

26. Severability.

If any provision contained in this Agreement is held to be unenforceable by a court of law or equity, this Agreement shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Agreement unenforceable.

27. Due Authorization.

Each party represents that all required authorizations have been obtained to execute this Agreement and for the compliance with each and every term hereof. Each person signing this Agreement warrants and represents to the other party that he or she has actual authority to execute this Agreement on behalf of the party for whom he or she is signing. An electronic or facsimile signature on this Agreement shall be treated for all purposes as an original signature. This Agreement is executed in one duplicate original for each party hereto, and is binding on a party only when all parties have signed and received a duplicate original.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands and seals the year and date first above written.

CITY OF RENO

ATTEST:

Hillary L. Schieve, Mayor

Mikki Huntsman, City Clerk

CONSULTANT

APPROVED:



Syndi Dudley, Ph D, PE
Senior Vice President

Susan Ball Rothe, Deputy City Attorney

Exhibit A

Evans Creek Drive Culvert Replacement

Scope of Services

Purpose and Project Understanding

The City of Reno (City) is requesting WSP USA Inc. to provide construction phase services during construction for the design project that was completed in 2024 for the Evans Creek Culvert Replacement Project.

This scope covers removal and replacement of riprap on downstream side slopes and culvert invert; removal of existing arch culvert segment No. 8; fabrication and installation of precast replacement arch segment; protection in place of existing utilities; removal and replacement of pavement, curb, gutter, sidewalk, and guardrail on Evans Creek Drive; street closure and traffic detour provisions; managing stream flows and Best Management Practices in and along Evans Creek; and other miscellaneous work as outlined in the plans and specifications. Work shall be performed in compliance with all applicable regulatory agency permits and guidelines. Design and permitting has been completed and the project was advertised in May 2024 with construction anticipated from August 2024 through October 2024.

Figure 1 – Location Map



The following is a tentative construction schedule:

- Bid opening – May 2024
- Construction support NTP – June 2024
- Contractor NTP – August 2024
- Construction completion – October 2024

TASK 1. PROJECT MANAGEMENT AND COORDINATION

Project management will include internal staff coordination, attending weekly construction meetings, and coordination with City staff, and design sub-consultants.

Task 1 assumptions include the following:

- Attend weekly construction meetings administered by the City.

TASK 2. DESIGN SERVICES DURING CONSTRUCTION

The Consultant will support the City with design services during the construction for the duration of the work. The Consultant shall provide the following design services during construction:

- Provide responses to questions or RFIs.
- Review shop drawings and provide comments.
- Assist the City with a review of the change order if desired by the City.
- Perform two site visits during construction as needed.
- By use of a sub-consultant, assist the city with clarifications related to geotechnical aspects.

It is assumed that:

- The City will manage the construction management and provide inspection and field inspectors.
- The City will run the pre-construction and weekly construction meetings.
- The City will chair the weekly progress meetings.
- The City will conduct any public outreach, partnering, utility coordination, or notice distribution required.

TASK 3. CONSTRUCTION INSPECTION

- None

TASK 4. MATERIALS TESTING

- None : Provide a task for testing and any specialty inspections that might be required

TASK 5. SURVEYING

- None

TASK 6. RECORD DRAWINGS

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

TASK7. SPECIAL SERVICES

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

City of Reno - Evan Creek Culvert Replacement - Design Services During Construction

ENGINEERING MAN-HOUR SUMMARY - Meetings, Engineering, and Construction Support Services

	Project Manager	Lead Structures Engineer	Lead Hydraulic Engineer	Lead Roadway Engineer	Sr. Hydraulic Engineer	Structures Engineer	Roadway Engineer	Hydraulics Engineer	CAAD Technician	Project Admin	
001	0	0	0	0	0	0	0	0	0	0	0
Tasks	29	17	11	7	10	14	2	4	14	2	110
Task 1- Project Management and coordination											
12 meetings at 1 hour	12										0
SubConsultant Coordination	2									2	4
Task 2- Design Services During Construction											0
10 RFIs @ 2.0 hours Each	4	2	2	2	2	2	2	2	2		0
Shop Drawing/Deferred Submittal		12	4	4	2	12		2			20
Two Site Visits	8		4								36
Task 3 - Construction Inspection											12
Excluded											0
Task 4 - Materials Testing											0
Advice testing and speciality inspections when required	2	2			4						0
Task 5 - Surveying											0
Excluded											0
Task 6 Record Drawings											0
7 Drawings	1	1	1	1	2				12		0
Task 7 - Special Services											18
As required by the City to be negotiated at a later date											0
											0
TOTAL ALL TASKS (INCLUDING DRAWINGS & TASKS)	29.0	17.0	11.0	7.0	10.0	14.0	2.0	4	14	2	110