

CONTRACT # *(Contract #)*

This Contract, made and entered into this ____ day of _____, 2012, by and between the State of Nevada Department of Transportation, hereinafter called the Department, and *(Name of Contractor)*, of *(Contractor Address)*, hereinafter called the Contractor.

Witnesseth: The Contractor agrees with the Department that, for the consideration and agreements hereinafter mentioned and contained to be made and performed by the Department, and under the conditions expressed in a bond bearing even date with these presents, and hereunto annexed, that the Contractor shall and will at its own proper cost and expense, do all the work and furnish all the materials necessary for the substantial construction and completion, and to the satisfaction of the Department, of a portion of the *(Highway Type)* Highway Systems of the State of Nevada, being in the County of *(Name of County)*, Route Section *(Section)*, Mileposts *(Mileposts)*, hereinafter called the Project, in strict conformity, in every part and particular, with the Department's Standard Specifications for Road and Bridge Construction 2001, Project Plans, and Project Special Provisions, which are made a part hereof, and in full compliance with the terms of this Contract.

And the Contractor hereby further agrees to receive and accept the prices set forth in the Proposal – Contract # *(Contract #)*, hereto annexed and thereby made a part of this Contract, as full compensation for furnishing all materials and labor, and the doing of all work, in strict accordance with the plans, special provisions and specifications hereinbefore mentioned, to the satisfaction of the Resident Engineer and in the manner and under the conditions hereinbefore specified.

The Department hereby promises and agrees with the Contractor, to employ, and does hereby employ, the Contractor to provide the materials and do the work according to the terms and conditions herein contained and referred to, for the prices aforesaid, and hereby contracts to pay the same at the time, in the manner, and upon the conditions set forth herein; and the parties themselves, their heirs, executors, administrators, successors, and assigns, do hereby agree to the full performance of the covenants herein contained. The Contractor further agrees that no moneys payable under this Contract shall be assigned by power of attorney, or otherwise, except upon the written consent of the Department.

In the event that a Bidder's Preference was applied to the Contractor's Proposal according to NRS 338.1389, NRS 338.147, NRS 338.1693, NRS 338.1727 or NRS 408.3886, and the Bidder's Preference contributed to the Contractor being awarded the Contract, the Contractor will meet the following requirements for the entire duration of the Project:

- (a) At least 50 percent of all workers employed on the Project, including, without limitation, any employees of the Contractor and of any subcontractor engaged on the Project, will hold a valid driver's license or identification card issued by the Nevada Department of Motor Vehicles;
- (b) All vehicles used primarily for the Project will be:
 - (1) Registered and partially apportioned to Nevada pursuant to the International Registration Plan, as adopted by the Nevada Department of Motor Vehicles pursuant to NRS 706.826; or
 - (2) Registered in this State;
- (c) At least 50 percent of the design professionals working on the Project, including, without limitation, any employees of the Contractor and of any subcontractor engaged on the public work, will have a valid driver's license or identification card issued by the Nevada Department of Motor Vehicles;
- (d) At least 25 percent of the suppliers of the materials used for the Project will be located in this State unless the Department requires the acquisition of materials or equipment that cannot be obtained from a supplier located in this State; and
- (e) 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.

Contractor agrees that failure to comply with any requirement of paragraphs (a) to (e), inclusive, above at any time during the entire duration of the Project is a material breach of this Contract and entitles the Department to liquidated damages against the party responsible for a failure to comply with a requirement of paragraphs (a) to (e), inclusive above. If a party to the Contract causes a material breach of contract between the Contractor and the Department as a result of a failure to comply with paragraphs (a) to (e), inclusive, above, the party is liable to the Department for liquidated damages in the amount of one percent (1%) of the cost of the largest contract to which he or she is a party. The Department may recover this amount directly against the party that causes the material breach, and no other party is liable to the Department for liquidated damages. These damages are not intended as a penalty. Damages are difficult to ascertain and the Parties agree that this amount is a reasonable estimate of presumed actual damages. Contractor must provide in any contract between Contractor and any subcontractor for the apportionment of liquidated damages assessed pursuant to this section if a person other than Contractor was responsible for the breach of this Contract for the Project caused by a failure to comply with a requirement of paragraphs (a) to (e), inclusive, above. The apportionment of liquidated damages must be in proportion to the responsibility of each party for the breach.

It is further agreed, by and between the parties hereto, that should there be any conflict between the terms of this Contract and the Proposal of the Contractor, then this Contract shall control, and nothing herein shall be considered an acceptance of the terms of such Proposal conflicting therewith.

And the Contractor hereby further agrees that the payment of the final amount due under this Contract shall release the State of Nevada and the Department of Transportation from any and all claims or liability on account of work performed under this Contract other than such claims, if any, as may be specifically excepted by the Contractor in writing at the time final payment is made.

CONTRACT

In Witness Whereof, The parties to these presents have hereunto set their hands and seals the year and date first above written.

Attested:

STATE OF NEVADA
Through the Department of Transportation

Director, Department of Transportation

Dated: _____, 20____

Approved as to Form & Legality:

(Chairman, Board of Directors, Department of Transportation)

Deputy Attorney General, Chief Counsel

(Contractor)

BY _____

CONTRACTOR'S ACKNOWLEDGMENT [use (a) or (b)] (a) Contractor's Acknowledgment (if an Individual or Partnership)

STATE OF _____ }
COUNTY OF _____ } SS

On this _____ day of _____, A.D. _____, personally appeared before me,

a _____, in and for _____ County, State of _____,
(Notary Public, Judge or other officer)

_____, known (or proved) to me
(Name)

to be the person(s) described in and executed the foregoing instrument, who acknowledged to me that he (they) executed the same freely and voluntarily and for the uses and purposes therein mentioned.

(SEAL)

(Notary Public, Judge or other officer)

(b) Contractor's Acknowledgment (if a Corporation)

STATE OF _____ }
COUNTY OF _____ } SS

On this _____ day of _____, A.D. _____, personally appeared before me,

a _____, in and for _____ County, State of _____,
(Notary Public, Judge or other officer)

_____, known (or proved) to me to be the _____
(Name) (President, Vice President or Secretary)

of the corporation that executed the foregoing instrument, and, upon oath, did depose that he is the officer of said corporation as above designated; that he is acquainted with the seal of said corporation and that the seal affixed to said instrument is the corporate seal of said corporation; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures; and that the said corporation executed the said instrument freely and voluntarily for the uses and purposes therein mentioned.

(SEAL)

(Notary Public, Judge or other officer)

PERFORMANCE BOND

Whereas, the Nevada Department of Transportation, hereinafter designated as "NDOT", has awarded to *(Name and Address of Contractor)*, hereinafter designated "PRINCIPAL", a Contract dated *(Award Date)* for the following work: Construction of a portion of the *(Highway Type)* Highway Systems in *(Name of County)* County, *(Location)*; and

Whereas, PRINCIPAL is required under the terms of said Contract and by law to furnish a Bond for the performance of said Contract;

Now therefore, we PRINCIPAL, and

(Name and Address of Bonding Company Main Office)

hereinafter designated "SURETY", are held and firmly bound unto NDOT, in the sum of (Amount of winning bid) dollars, lawful money of the United States, being not less than one hundred percent (100%) of the estimated contract cost of the work, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above-bounden PRINCIPAL's heirs, executors, administrators, successors, or assigns, shall in all things stand to and abide by, and well and truly keep and faithfully perform the covenants, conditions, and agreements in the Contract and any alterations made as therein provided, on PRINCIPAL's part to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning; and shall indemnify and save harmless NDOT, its officers and agents, as therein stipulated; then this obligation shall become null and void. Otherwise, it shall be and remain in full force and virtue.

SURETY, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of Contract, or to the work to be performed thereunder, shall in any way affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work.

And SURETY, for value received, hereby stipulates and agrees, if requested to do so by NDOT, to perform and fully complete the work mentioned and described in said Contract, pursuant to the terms, conditions and covenants thereof, if for any cause, said Principal fails or neglects to so perform and fully complete said work; the said SURETY further agrees to commence said work to full completion within twenty (20) days after notice thereof from NDOT, and to fully complete the same with all due diligence and in accordance with the plans and specifications.

And SURETY, for value received, further stipulates and agrees that should NDOT incur attorney's fees or other expenses for the enforcement of the Contract or this Bond, the same shall be paid by SURETY to NDOT.

(Authorized Agent)

(Contractor)

(Bonding Company Name)

By: _____

(Address of Authorized Agent)

(Name of Bonding Company)

By: _____
Attorney in Fact

NOTE TO SURETY ON BOND: Certificates of authority for Attorneys in Fact must be on file with the Department of Transportation and the Insurance Commissioner of the State of Nevada.

(a) Contractor's Acknowledgment (if an Individual or Partnership)

STATE OF _____ }
COUNTY OF _____ } SS

On this _____ day of _____, A.D. _____, personally appeared before me,

a _____, in and for _____ County, State of _____,

(Notary Public, Judge or other officer)

_____, known (or proved) to me
(Name)

to be the person(s) described in and executed the foregoing instrument, who acknowledged to me that he (they) executed the same freely and voluntarily and for the uses and purposes therein mentioned.

(SEAL)

(Notary Public, Judge or other officer)

(b) Contractor's Acknowledgment (if a Corporation)

STATE OF _____ }
COUNTY OF _____ } SS

On this _____ day of _____, A.D. _____, personally appeared before me,

a _____, in and for _____ County, State of _____,

(Notary Public, Judge or other officer)

_____, known (or proved) to me to be the _____
(Name) (President, Vice President or Secretary)

of the corporation that executed the foregoing instrument, and, upon oath, did depose that he is the officer of said corporation as above designated; that he is acquainted with the seal of said corporation and that the seal affixed to said instrument is the corporate seal of said corporation; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures; and that the said corporation executed the said instrument freely and voluntarily for the uses and purposes therein mentioned.

(SEAL)

(Notary Public, Judge or other officer)

(C) Acknowledgment for Bonding Company

STATE OF _____ }
COUNTY OF _____ } SS

On this _____ day of _____, A.D. _____, personally appeared before me,

a _____, in and for _____ County, State of _____,

(Notary Public, Judge or other officer)

_____, known (or proved) to me to be the _____
(Name) (Attorney in fact or other officer)

of the corporation that executed the foregoing instrument, and, upon oath, did depose that he is the officer of said corporation as above designated; that he is acquainted with the seal of said corporation and that the seal affixed to said instrument is the corporate seal of said corporation; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures; and that the said corporation executed the said instrument freely and voluntarily for the uses and purposes therein mentioned.

(SEAL)

(Notary Public, Judge or other officer)

Approval of Bond

Approved _____, 20 _____

Deputy Attorney General of the State of Nevada

LABOR AND MATERIAL BOND

Whereas, the Nevada Department of Transportation, hereinafter designated as "NDOT", has awarded to *(Name and Address of Contractor)*, hereinafter designated "PRINCIPAL", a Contract dated *(Award Date)* for the following work: Construction of a portion of the *(Highway Type)* Highway Systems in *(Name of County)* County, *(Location)*; and

Whereas, PRINCIPAL is required under the terms of said Contract and by law to furnish a Bond for labor and materials used in said Contract;

Now therefore, we PRINCIPAL, and

(Name and Address of Bonding Company Main Office)

hereinafter designated "SURETY", are held and firmly bound unto NDOT, in the sum of *(Amount of Winning Bid)* dollars, lawful money of the United States, being not less than one hundred percent (100%) of the estimated contract cost of the work, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above-bounden PRINCIPAL's heirs, executors, administrators, successors, or assigns, shall fail to pay for any materials, provision, supplies, implements or machinery used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, together with interest at the rate of twelve percent per annum, or for amounts due under the Unemployment Compensation Law with respect to such work or labor, as required by the provisions of NRS 612, and provided that the claimant shall have complied with the provisions of NRS 408.363, SURETY hereon will pay the same within thirty (30) calendar days an amount not exceeding the sum specified in this Bond, and the above obligation shall then be null and void. Otherwise, it shall remain in full force and virtue.

SURETY, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of Contract, or to the work to be performed thereunder, shall in any way affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work.

This Bond shall inure to the benefit of any person who provides materials, provisions, supplies, trucks, other means of transportation, work or labor to complete the work called for in the contract, as to give a right of action to such persons or their assigns in any suit brought upon this Bond.

And SURETY, for value received, further stipulates and agrees that should NDOT or other obligees, incur attorney's fees or other expenses for the enforcement of the Contract or this Bond, the same shall be paid by SURETY to NDOT, subcontractors, workmen, laborers, mechanics, and furnishers of the materials as their interests may appear.

(Authorized Agent)

(Contractor)

(Bonding Company Name)

By: _____

(Address of Authorized Agent)

(Name of Bonding Company)

By: _____

Attorney in Fact

NOTE TO SURETY ON BOND: Certificates of authority for Attorneys in Fact must be on file with the Department of Transportation and the Insurance Commissioner of the State of Nevada.

(a) Contractor's Acknowledgment (if an Individual or Partnership)

STATE OF _____ }
COUNTY OF _____ } SS

On this _____ day of _____, A.D. _____, personally appeared before me,
a _____, in and for _____ County, State of _____,
(Notary Public, Judge or other officer)
_____, known (or proved) to me
(Name)

to be the person(s) described in and executed the foregoing instrument, who acknowledged to me that he (they) executed the same freely and voluntarily and for the uses and purposes therein mentioned.

(SEAL)

(Notary Public, Judge or other officer)

(b) Contractor's Acknowledgment (if a Corporation)

STATE OF _____ }
COUNTY OF _____ } SS

On this _____ day of _____, A.D. _____, personally appeared before me,
a _____, in and for _____ County, State of _____,
(Notary Public, Judge or other officer)
_____, known (or proved) to me to be the _____
(Name) (President, Vice President or Secretary)

of the corporation that executed the foregoing instrument, and, upon oath, did depose that he is the officer of said corporation as above designated; that he is acquainted with the seal of said corporation and that the seal affixed to said instrument is the corporate seal of said corporation; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures; and that the said corporation executed the said instrument freely and voluntarily for the uses and purposes therein mentioned.

(SEAL)

(Notary Public, Judge or other officer)

(C) Acknowledgment for Bonding Company

STATE OF _____ }
COUNTY OF _____ } SS

On this _____ day of _____, A.D. _____, personally appeared before me,
a _____, in and for _____ County, State of _____,
(Notary Public, Judge or other officer)
_____, known (or proved) to me to be the _____
(Name) (Attorney in fact or other officer)

of the corporation that executed the foregoing instrument, and, upon oath, did depose that he is the officer of said corporation as above designated; that he is acquainted with the seal of said corporation and that the seal affixed to said instrument is the corporate seal of said corporation; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures; and that the said corporation executed the said instrument freely and voluntarily for the uses and purposes therein mentioned.

(SEAL)

(Notary Public, Judge or other officer)

Approval of Bond

Approved _____, 20 _____

Deputy Attorney General of the State of Nevada