

COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM D
FOR MEETING OF JUNE 14, 2022

SUBJECT:

For Possible Action: Consideration of and possible action to approve Amendment No. 3 to Contract SA-12-01, extending the contract term to June 30, 2025, for Substation Automation System Support Services between Schweitzer Engineering Laboratories, Inc., and the Colorado River Commission of Nevada.

RELATED TO AGENDA ITEM:

None.

RECOMMENDATION OR RECOMMENDED MOTION:

Staff recommends the Commission approve Amendment No. 3 to Contract SA-12-01 between Schweitzer Engineering Laboratories, Inc. and the Commission, and authorize the Executive Director to sign it on behalf of the Commission.

FISAL IMPACT:

None.

STAFF COMMENTS AND BACKGROUND:

A. Request for Amendment of Contract:

The requested Amendment No. 3 is an extension of the contract for three more years to June 30, 2025 and there is no request to add any additional amount authorized under the contract. The current balance remaining on the contract is \$279,532 and that is expected to sufficient for the term of the extension.

B. Background on Operations and Contract

The Commission uses an automation system to operate its transmission and distribution facilities, monitor equipment status and to respond to operational events in providing electric services to its customers including the Southern Nevada Water Authority, the Clark County Water Reclamation District, and the Basic Substation Project.

The services of an outside vendor are needed from time-to-time for the routine operation and maintenance of the system such as troubleshooting, programming and modifying the computer systems associated with the automation system. These services include updating of Human-Machine Interface (HMI) screens or updates utilizing the installed software on the system development node, and updating those HMI screens to operating nodes; updating communication processor settings; updating substation automation system database and set points; troubleshooting from remote locations; and, restoration of the automation system in the event software or a server is temporarily or permanently rendered inoperable.

Staff anticipates the continued need for these substation automation system support services and, therefore, asks the Commission to approve an amendment to the contract with Schweitzer, in order to enable the Commission and its electric customers to continue to benefit from Schweitzer's proprietary software and to avoid the additional costs that would result from obtaining these services from a different contractor.

The contract with Schweitzer is an enabling type of contract which allows the Commission to use none or all of the services listed above. The work is authorized on an individual task basis. If the Commission requires the company to perform work, a "Task Authorization" is prepared and submitted for approval. A task authorization must contain a description of the work to be performed, a list of deliverables, a schedule for completing the assignment, and a budget for the task.

AMENDMENT NO. 3
to
CONTRACT NO. SA-12-01
FOR
Substation Automation System Support Services

A Contract Between the State of Nevada
Acting By and Through Its

Colorado River Commission of Nevada
555 E. Washington Avenue, Suite 3100
Las Vegas, Nevada 89101-1065
Phone: (702) 486-2670
Fax: (702) 486-2695
Contact: Robert D. Reese
Email: breese@crc.nv.gov

and

**Schweitzer Engineering Laboratories, Inc. and
its subsidiary SEL Engineering Services, Inc.**
236 NE Hopkins Court
Pullman, Washington 99163-5603
Phone: (509) 332-1890
Fax: (509) 332-7990
Contact: Dita Wexler
Email: selcontracts@selinc.com

1. AMENDMENTS. For and in consideration of mutual promises and/or their valuable consideration, all provisions of the Original Contract, dated June 12, 2012, Amendment No. 1 dated April 27, 2015, and Amendment No. 2 dated April 5, 2019, which is attached hereto as Exhibit A, remain in full force and effect with the exception of the following:

- A. The Contract Term, as set forth in Section 3 of the Original Contract, shall be extended for an additional three years.**

Current Contract Language:

3. CONTRACT TERM. This Contract shall be effective on the date of its execution and shall remain in effect until June 30, 2019, unless sooner terminated by either party as specified in paragraph ten (10).

Amended Contract Language:

3. CONTRACT TERM. This Amendment shall be effective on the date of its execution and shall remain in effect until June 30, 2025, unless sooner terminated by either party as specified in paragraph ten (10).

2. INCORPORATED DOCUMENTS. Exhibit A (Original Contract and Amendment No. 1) is attached hereto, incorporated by reference herein and made a part of this amended contract.

3. REQUIRED APPROVAL. This amendment to the original contract shall not become effective upon approval by all parties.

IN WITNESS WHEREOF, the parties hereto have caused this amendment to the original contract to be signed and intend to be legally bound thereby.

**SCHWEITZER ENGINEERING
LABORATORIES, INC. & SEL ENGINEERING
SERVICES INC.**

**COLORADO RIVER COMMISSION
OF NEVADA**

DocuSigned by:

Jeremy Nickels

CC6617F64DC94E9

Name Jeremy Nickels Date
Title Vice President of Finance 5/17/2022

Eric Witkoski Date
Executive Director

Approved as to form by:

David Newton

May 24, 2022

David W. Newton Date
Senior Deputy Attorney General

EXHIBIT A

Amendment No. 2 dated April 5, 2019

Amendment No. 1 dated April 27, 2015

Original Contract, dated June 12, 2012

AMENDMENT NO. 2
to
CONTRACT NO. SA-12-01
FOR
Substation Automation System Support Services

A Contract Between the State of Nevada
Acting By and Through Its

Colorado River Commission of Nevada
555 E. Washington Avenue, Suite 3100
Las Vegas, Nevada 89101-1065
Phone: (702) 486-2670
Fax: (702) 486-2695
Contact: Robert D. Reese
Email: breese@crc.nv.gov

and

**Schweitzer Engineering Laboratories, Inc. and
its subsidiary SEL Engineering Services, Inc.**
236 NE Hopkins Court
Pullman, Washington 99163-5603
Phone: (509) 332-1890
Fax: (509) 332-7990
Contact: Dita Wexler
Email: selcontracts@selinc.com

1. **AMENDMENTS.** For and in consideration of mutual promises and/or their valuable consideration, all provisions of the Original Contract, dated June 12, 2012, and Amendment No. 1 dated April 27, 2015 which is attached hereto as Exhibit A, remain in full force and effect with the exception of the following:

- A. **The Contract Term, as set forth in Section 3 of the Original Contract, shall be extended for an additional three years.**
- B. **The Contract cost set forth in Section 6 of the Original Contract, shall be increased by \$100,000.00 to the not-to-exceed amount of \$575,000.00.**

Current Contract Language:

3. **CONTRACT TERM.** This Contract shall be effective on the date of its execution and shall remain in effect until June 30, 2019, unless sooner terminated by either party as specified in paragraph ten (10).

6. **CONSIDERATION.** The parties agree that Company will provide the services specified in the Scope of Work at a not-to-exceed cost of Four Hundred Seventy-Five Thousand Dollars and no cents (\$475,000.00) over the term of the contract. The State does not agree to reimburse Company for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require.

Amended Contract Language:

3. **CONTRACT TERM.** This Amendment shall be effective on the date of its execution and shall remain in effect until June 30, 2022, unless sooner terminated by either party as specified in paragraph ten (10).

6. **CONSIDERATION.** The parties agree that Company will provide the services specified in the Scope of Work at a not-to-exceed cost of **Five Hundred Seventy-Five Thousand Dollars and no cents (\$575,000.00)** over the term of the contract. The State does not agree to reimburse Company for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require.

2. **INCORPORATED DOCUMENTS.** Exhibit A (Original Contract and Amendment No. 1) is attached hereto, incorporated by reference herein and made a part of this amended contract.

3. **REQUIRED APPROVAL.** This amendment to the original contract shall not become effective upon approval by all parties.

IN WITNESS WHEREOF, the parties hereto have caused this amendment to the original contract to be signed and intend to be legally bound thereby.

**SCHWEITZER ENGINEERING
LABORATORIES, INC. & SEL ENGINEERING
SERVICES INC.**

**COLORADO RIVER COMMISSION
OF NEVADA**

C.R. Gubba 03/27/2019
Krishnanjan Gubba Rayikumar Date
Pullman Branch Manager

Eric Witkoski 4/5/19
Eric Witkoski Date
Executive Director

Approved as to form by:

Christine Guerci-Nyhus 4/2/19
Christine Guerci-Nyhus Date
Deputy Attorney General for Attorney General

AMENDMENT NO. 1
to
CONTRACT NO. SA-12-01
Substation Automation System Support Services

Between the State of Nevada
Acting By and Through Its

Colorado River Commission of Nevada
555 E. Washington Avenue, Suite 3100
Las Vegas, Nevada 89101-1065
Contact: Robert D. Reese
Phone: (702) 682-6972
Fax: (702) 856-3617
Email: breeser@crc.nv.gov

and

Schweitzer Engineering Laboratories, Inc.
2350 NE Hopkins Court
Pullman, Washington 99163-5603
Contact: Susan Anderson
Phone: (509) 332-1890
Fax: (509) 332-7990
Email: selcontracts@selinc.com

1. AMENDMENTS. For and in consideration of mutual promises and/or their valuable consideration, all provisions of the Original Contract, dated June 12, 2012, which is attached hereto as Exhibit A, remain in full force and effect with the exception of the following:

A. The Contract Term, as set forth in Section 3 of the Original Contract, shall be extended for an additional four years.

B. The Contract cost set forth in Section 6 of the Original Contract shall be increased by \$250,000.00 to the not-to-exceed amount of \$475,000.00.

Current Contract Language:

3. CONTRACT TERM. This Contract shall be effective on the date of its execution and shall remain in effect until June 30, 2015, unless sooner terminated by either party as specified in paragraph ten (10).

6. CONSIDERATION. The parties agree that Company will provide the services specified in the Scope of Work at a not-to-exceed cost of Two Hundred Twenty Five Thousand Dollars and no cents (\$225,000.00) over the term of the contract. The State does not agree to reimburse Company for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require.

Amended Contract Language:

3. **CONTRACT TERM.** This Amendment shall be effective on the date of its execution and shall remain in effect until June 30, 2019, unless sooner terminated by either party as specified in paragraph ten (10).

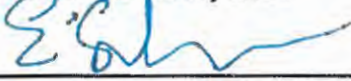
6. **CONSIDERATION.** The parties agree that Company will provide the services specified in the Scope of Work at a not-to-exceed cost of **Four Hundred Seventy-Five Thousand Dollars and no cents (\$475,000.00)** over the term of the contract. The State does not agree to reimburse Company for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require.

2. **INCORPORATED DOCUMENTS.** Exhibit A (Original Contract) is attached hereto, incorporated by reference herein and made a part of this amended contract.

3. **REQUIRED APPROVAL.** This amendment to the original contract shall not become effective upon approval by all parties.

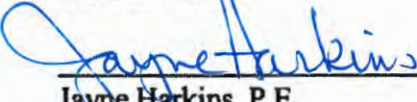
IN WITNESS WHEREOF, the parties hereto have caused this amendment to the original contract to be signed and intend to be legally bound thereby.

**SCHWEITZER ENGINEERING
LABORATORIES, INC.**




3/27/15
Date

**COLORADO RIVER COMMISSION
OF NEVADA**



Jayne Harkins, P.E.
Executive Director
4/27/15
Date

Approved as to form by:



Ann C. Pongracz
Special Counsel to the
Colorado River Commission of Nevada
3/27/15
Date

**CONTRACT NO. SA-12-01
SUBSTATION AUTOMATION SYSTEM
SUPPORT SERVICES**

A Contract Between the State of Nevada

Acting By and Through Its

Colorado River Commission of Nevada
555 E. Washington Avenue, Suite 3100
Las Vegas, Nevada 89101-1065

and

Schweitzer Engineering Laboratories, Inc.
2350 NE Hopkins Court
Pullman, Washington 99163-5603

1. REQUIRED APPROVAL. This Contract shall become effective upon the date of execution by the Colorado River Commission of Nevada (“Commission”) and Schweitzer Engineering Laboratories, Inc. (“Company”) (collectively referred to herein as “the Parties”), following approval of the Contract by the Commission.

2. DEFINITIONS. “State” means the State of Nevada and any state agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307. “Fiscal Year” is defined as the period beginning July 1 and ending June 30 of the following year.

3. CONTRACT TERM. This Contract shall be effective on the date of its execution and shall remain in effect until June 30, 2015, unless sooner terminated by either party as specified in paragraph ten (10).

4. NOTICE. All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party as follows:

Notices to the Commission shall be provided to the following authorized representatives for each of the Parties:

Robert D. Reese
Assistant Director of Engineering and Operations and,
in his absence, Ron Pretasky, the Power Facilities Manager
Colorado River Commission of Nevada
555 E. Washington Ave., Suite 3100
Las Vegas, NV 89101-1065
Phone: (702) 856-3611
Fax: (702) 856-3617
Email: breese@crc.nv.gov

Notices to the Company shall be provided to:

Nancy L. Hindman
Chief Operating Officer
2350m NE Hopkins Court
Pullman, WA 99163-5603
Phone: 509-332-1890
FAX: 509-334-4946 or 509-332-7990
Email: contracts_and_risk@selinc.com

5. MUTUAL UNDERSTANDING: The work shall be provided to Commission by Company pursuant to Attachment AA-Scope of Work as incorporated hereunder and through approved Task Authorizations as indicated in Attachment AA, which Company may from time to time submit. The work required to be performed consists of the work specified in the specifically approved Task Authorization. No Task Authorization or changes thereto shall be effective without written approval by the Commission's authorized representative and shall thereafter become a part of this Contract. Each such Task Authorization shall be effective upon approval from the Commission's authorized representative.

6. INCORPORATED DOCUMENTS. The parties agree to the scope of work described in Attachment AA. This Contract incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT AA:	SCOPE OF WORK; AND
ATTACHMENT BB:	INSURANCE SCHEDULE

A Company's Attachment shall not contradict or supersede any State specifications, terms or conditions without written evidence of mutual assent to such change appearing in this Contract.

7. CONSIDERATION. The parties agree that Company will provide the services specified in the Attachment AA-Scope of Work for a combined total not-to-exceed cost of Two Hundred Twenty Five Thousand Dollars and no cents (\$225,000.00) over the term of this Contract. The State agrees to reimburse Company for expenses as specified in the incorporated attachments and approved in the Task Authorization. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require and in accordance with Section 11 (b) of this Contract.

8. ASSENT. The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations specified.

9. TIMELINESS OF BILLING SUBMISSION. The parties agree that timeliness of billing is of the essence to the contract and recognize that the State is on a fiscal year. All billings for dates of service prior to July 1 must be submitted to the State no later than the first Friday in August of the same calendar year. A billing submitted after the first Friday in August, which forces the State to process the billing as a stale claim pursuant to NRS 353.097, will subject the Company to an administrative fee not to exceed one hundred dollars (\$100.00). The parties hereby agree this is a reasonable estimate of the additional costs to the State of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to the Company.

10. INSPECTION & AUDIT.

a. Books and Records. Company agrees to keep and maintain under generally accepted accounting principles (GAAP) full, true and complete records, contracts, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.

b. Inspection & Audit. Company agrees that the relevant books, records (written, electronic, computer related or otherwise), including, without limitation, relevant accounting procedures and practices of Company or its subcontractors, financial statements specifically related to the project, (excluding company financial statements and reports related to general business operations and productivity and components of any fixed rates.) and supporting documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Company where such records may be found, with or without notice by the State Auditor, the relevant state agency or its contracted examiners, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of

the Inspector General, or any of their authorized representatives. All subcontracts shall reflect requirements of this paragraph.

c. Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained a minimum three (3) years, and for five (5) years if any federal funds are used pursuant to the Contract. The retention period runs from the date of payment for the relevant goods or services by the State, or from the date of termination of the Contract, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

11. CONTRACT TERMINATION. Unless otherwise specified, termination shall not be effective until 30 calendar days after a party has served written notice of termination for default, or notice of termination without cause upon the other party.

a. Termination Without Cause. Any discretionary or vested right of renewal notwithstanding, this Contract may be terminated upon written notice by mutual consent of both parties, or unilaterally by either party without cause. Commission shall compensate Company for any authorized expenses incurred prior to the date of termination. Authorization shall be deemed to have been given if such expense was incorporated in the price of the project upon approval of the Task Authorization by the Commission's authorized representative.

b. State Termination for Non-appropriation. The continuation of this Contract beyond the current biennium may be subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the State Legislature and/or federal sources. The State may terminate this Contract, and Company waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the Commission's funding is not appropriated or is withdrawn, limited, or impaired. Commission shall pay for all services provided which were specifically authorized through the termination date. Authorization shall be deemed to have been given if such expense was incorporated in the price of the project upon approval of the Task Authorization by the Commission's authorized representative.

c. Cause Termination for Default or Breach. A default or breach may be declared with or without termination. This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:

- i. If Company fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or
- ii. If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Company to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or

- iii. If Company becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or
- iv. If the State materially breaches any material duty under this Contract and any such breach impairs Company's ability to perform; or
- v. If it is found by the State that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by Company, or any agent or representative of Company, to any officer or employee of the State of Nevada with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or
- vi. If it is found by the State that Company has failed to disclose any material conflict of interest relative to the performance of this Contract.

d. Time to Correct. Termination upon a declared default or breach may be exercised only after service of formal written notice as specified in paragraph four (4), and the subsequent failure of the defaulting party within thirty (30) calendar days of receipt of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.

e. Winding Up Affairs Upon Termination. In the event of termination of this Contract for any reason, the parties agree that the provisions of this paragraph survive termination:

- i. The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
- ii. Company shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by the Commission with the understanding that payment for such work will be made in accordance with the terms of this Contract;
- iii. Company shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by the Commission;
- iv. Company shall preserve, protect and promptly deliver into State possession all non-proprietary information in accordance with paragraph twenty-two (22).

12. REMEDIES. Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall include without limitation one hundred and twenty-five dollars (\$125.00) per hour for State-employed attorneys. The State may set off consideration against any unpaid obligation of Company to any State agency in accordance with NRS 353C.190. In the event that the Company voluntarily or involuntarily becomes subject to the jurisdiction of the Bankruptcy court, the State may set off consideration against any unpaid obligation of Company to the State or its agencies, to the extent allowed by bankruptcy law, without regard to whether the procedures of NRS 353C.190 have been utilized.

13. LIMITED LIABILITY. The State will not waive and intends to assert available NRS chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise specified in the incorporated attachments. Damages for any State breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to Company, for the fiscal year budget in existence at the time of the breach. Damages for any Company breach shall not exceed one hundred percent (100%) of the contract maximum "not to exceed" value. Company's tort liability shall not be limited. In no event, whether as a result of breach of contract, indemnity, warranty, tort (including negligence), strict liability or otherwise, shall Company be liable for any special, consequential, incidental, liquidated or punitive damages not due to its own actions, including without limitation any loss of profit or revenues, loss of use of products or associated equipment, damage to associated equipment, cost of capital, cost of substitute products, facilities, services or replacement power, downtime costs or claims of State or Commission's customers for such damages, provided that company has performed in accordance with industry standards.

14. FORCE MAJEURE. Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Contract after the intervening cause ceases.

15. INDEMNIFICATION. To the fullest extent permitted by law Company shall indemnify, hold harmless and defend, not excluding the State's right to participate, the State from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of negligent or willful acts or omissions of Company, its officers, employees and agents.

16. GENERAL COMPANY DUTIES. In addition to all other duties prescribed by this Contract, including but not limited to those set forth in the Scope of Work, Company has the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for the State whatsoever with respect to the indebtedness, liabilities, and obligations of Company or any other party. Company shall be solely responsible for, and the State shall have no obligation with respect to: (1) withholding of income taxes, FICA or any other personnel taxes or fees; (2) industrial insurance coverage; (3) participation in any group insurance plans available to employees of the State; (4) participation or contributions by either contract or the State to the Public Employees Retirement System; (5) accumulation of vacation leave or sick leave; or (6) unemployment compensation coverage provided by the State. Company shall indemnify and

hold State harmless from, and defend State against, any and all losses, damages, claims, costs, penalties, liabilities, and expenses arising or incurred because of such taxes or fees. Neither Company nor its employees, agents, nor representatives shall be considered employees, agents, or representatives of the State.

17. INSURANCE SCHEDULE. Unless expressly waived in writing by the State, Company must carry policies of insurance and pay all taxes and fees incident hereunto. Policies shall meet the terms and conditions as specified within this Contract along with the additional limits and provisions as described in Attachment BB, incorporated hereto by attachment. The State shall have no liability except as specifically provided in the Contract.

The Company shall not commence work before:

- 1) Company has provided the required evidence of insurance to the Commission, and
- 2) The State has approved the insurance policies provided by the Company.

Prior approval of the insurance policies by the State shall be a condition precedent to any payment of consideration under this Contract and the State's approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent this Contract. Any failure of the State to timely approve shall not constitute a waiver of the condition.

Insurance Coverage: The Company shall, at the Company's sole expense, procure, maintain and keep in force for the duration of the Contract insurance conforming to the minimum limits as specified in Attachment BB, incorporated hereto by attachment. Unless specifically stated herein or otherwise agreed to by the State, the required insurance shall be in effect prior to the commencement of work by the Company and shall continue in force as appropriate until:

1. Final acceptance by the State of the completion of this Contract; or
 2. Such time as the insurance is no longer required by the State under the terms of this Contract;
- whichever occurs later.

Any insurance or self-insurance available to the State shall be in excess of, and non-contributing with, any insurance required from Company. Company's insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by the State, Company shall provide the State with renewal or replacement evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as Company has knowledge of any such failure, Company shall immediately notify the State and immediately replace such insurance or bond with an insurer meeting the requirements.

General Requirements:

- a. Additional Insured: By endorsement to the Company's general liability insurance policy, the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 shall be named as additional insureds for liability arising from the Contract as to Company's Commercial, General and Automobile insurance coverage.
- b. Waiver of Subrogation: Each insurance policy shall provide for a waiver of subrogation against the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 for losses arising from work/materials/equipment performed or provided by or on behalf of the Company.
- c. Cross-Liability: All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.
- d. Deductibles and Self-Insured Retentions: Insurance maintained by Company shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by the State. Such approval shall not relieve Company from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed fifty thousand dollars (\$50,000.00) per occurrence, unless otherwise approved by the Risk Management Division. Aggregate totals shall not exceed \$2,000,000.
- e. Policy Cancellation: Except for ten (10) days notice for non-payment of premium, each insurance policy shall be endorsed to state that without thirty (30) days prior written notice to the State of Nevada, c/o the Commission, the policy shall not be canceled, non-renewed or coverage and /or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mailed to the address shown on page one (1) of this contract:
- f. Approved Insurer: Each insurance policy shall be:
 - 1) Issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers acceptable to the State and having agents in Nevada upon whom service of process may be made; and
 - 2) Currently rated by A.M. Best as "A-VII" or better.

Evidence of Insurance:

Prior to the start of any Work, Company must provide the following documents to the contracting State agency:

- 1) Certificate of Insurance: The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to the State to evidence the insurance policies and coverages required of Company. The certificate must name the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 as the certificate holder. The certificate should be signed by a person authorized insurer to bind coverage on its behalf. The state project/contract number; description and contract effective dates shall be noted on the

certificate, and upon renewal of the policies listed Company shall furnish the State with replacement certificates as described within Insurance Coverage, section noted above.

Mail all required insurance documents to the Commission representative identified in paragraph 4 of this Contract.

2) Additional Insured Endorsement: An Additional Insured Endorsement (CG 20 10 11 85 or CG 20 26 11 85), signed by an authorized insurance company representative, must be submitted to the State to evidence the endorsement of the State as an additional insured per General Requirements, subsection a, above.

3) Schedule of Underlying Insurance Policies: If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the Underlyer Schedule from the Umbrella or Excess insurance policy may be required.

4) Review and Approval: Documents specified above must be submitted for review and approval by the State prior to the commencement of work by Company. Neither approval by the State nor failure to disapprove the insurance furnished by Company shall relieve Company of Company's full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of Company or its sub-contractors, employees or agents to the State or others, and shall be in addition to and not in lieu of any other remedy available to the State under this Contract. The State reserves the right to request and review a copy of any required insurance endorsement to assure compliance with these requirements.

18. COMPLIANCE WITH LEGAL OBLIGATIONS. Company shall procure and maintain for the duration of this Contract any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Company to provide the goods or services required by this Contract. Company will be responsible to pay all personnel taxes assessments, fees, premiums, permits, and licenses required by law. Real property and personal property taxes are the responsibility of Company in accordance with NRS 361.157 and NRS 361.159. Company agrees to be responsible for payment of any such government obligations not paid by its sub-contractors during performance of this Contract. The State may set-off against consideration due any delinquent government obligation in accordance with NRS 353C.190.

19. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

20. SEVERABILITY. If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the

non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

21. ASSIGNMENT/DELEGATION. To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by State, such offending portion of the assignment shall be void, and shall be a breach of this Contract. Company shall neither assign, transfer nor delegate any rights, obligations nor duties under this Contract without the prior written consent of the Commission.

22. STATE OWNERSHIP OF PROPRIETARY INFORMATION. Any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under the Contract), or any other documents or drawings, prepared or in the course of preparation by Company (or its sub-contractors) in performance of its obligations under this Contract ("Work Product") shall be the property of the Company. The Work Product shall be delivered into State possession by Company upon completion, termination, or cancellation of this Contract. Company grants the Commission a revocable, royalty free, license to use such Work Product for Commission's internal non-commercial purposes. The Commission shall have no proprietary interest in any materials licensed for use by the Company that are subject to patent, trademark or copyright protection.

23. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents received from Company may be open to public inspection and copying. The State has a legal obligation to disclose such information unless a particular record is made confidential by law or a common law balancing of interests. Company may label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 333.333, provided that Company thereby agrees to indemnify and defend the State for honoring such a designation. The failure to so label any document that is released by the State shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

24. CONFIDENTIALITY. The parties shall keep confidential all information provided by one party to the other, in whatever form, produced, prepared, observed or received to the extent that such information is confidential by law or otherwise required by this Contract. In the performance of the Task Authorization and/or this Contract, a party may receive documents, materials, data and other confidential information of the other party. The receiving party shall use confidential information solely in performance of the work performed under this Contract. The receiving party shall use at least the same degree of care (and, in any event, not less than a reasonable degree of care) in protecting the disclosing party's confidential information as it exercises in protecting its own similar confidential information. Confidential information shall be subject to these terms for three (3) years following receipt of such confidential information. Confidentiality obligations shall survive the termination of this Contract.

25. LOBBYING. The Parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

- a. Any federal, state, county or local agency, legislature, commission, council or board;
- b. Any federal, state, county or local legislator, commission member, council member, board member, or other elected official; or
- c. Any officer or employee of any federal, state, county or local agency; legislature, commission, council or board.

26. WARRANTIES.

a. General Warranty. Company warrants that all services, deliverables, and/or work product under this Contract shall be completed in a workmanlike manner consistent with standards in the trade, profession, or industry; shall conform to or exceed the specifications set forth in the incorporated attachments; and shall be fit for ordinary use, of good quality, with no material defects.

b. System Compliance. Company warrants that any information system application(s) shall not experience abnormally ending and/or invalid and/or incorrect results from the application(s) in the operating and testing of the business of the Commission. This warranty includes, without limitation, century recognition, calculations that accommodate same century and multi-century formulas and data values and date data interface values that reflect the century. Company shall reperform (or, at Company's option, pay a third party to reperform) any defective services at no cost upon receipt of notice detailing the defect(s) within one (1) year of performance of the original services. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THIS WARRANTY SHALL BE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER STATUTORY, EXPRESS, VERBAL OR IMPLIED (INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE AND WARRANTIES ARISING FROM COURSE OF DEALING OR PERFORMANCE OR USAGE OF TRADE).

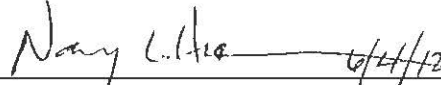
27. PROPER AUTHORITY. The Parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. Any services performed by Company before this Contract is effective or after it ceases to be effective are performed at the sole risk of Company.

28. GOVERNING LAW; JURISDICTION. This Contract and the rights and obligations of the Parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. The Parties' consent to the exclusive jurisdiction of the First Judicial District Court, Las Vegas, Nevada for enforcement of this Contract.

29. ENTIRE CONTRACT AND MODIFICATION. This Contract and its integrated attachment(s) constitute the entire agreement of the Parties and as such are intended to be the complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Office of the Attorney General.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.


SCHWEITZER ENGINEERING LABORATORIES, INC.



Nancy L. Hindman
Chief Operating Officer

6/4/12
Date


COLORADO RIVER COMMISSION OF NEVADA



Jayne Harkins, P.E.
Executive Director

6/12/12
Date

Approved as to form by:



Ann C. Pongracz
Senior Deputy Attorney General

6/4/12
Date

**CONTRACT NO. SA-12-01
SUBSTATION AUTOMATION SYSTEM
SUPPORT SERVICES**

Between
Colorado River Commission of Nevada
and
Schweitzer Engineering Laboratories, Inc.

ATTACHMENT AA

SCOPE OF WORK

BACKGROUND

The Colorado River Commission of Nevada (“Commission”) owns, operates and maintains a high-voltage transmission and distribution system consisting of two 230/69-kV substations, three 230/14.4-kV substations, four 69/13.8-kV substations, seven 69/4.16-kV substations, thirty-two miles of double-circuit 230-kV transmission lines, five miles of double-circuit 69-kV overhead transmission lines, eleven miles of double-circuit 69-kV underground transmission lines and other related facilities in Clark County, Nevada.

To provide for the remote operation, control, protection and monitoring of the high-voltage transmission and distribution system, the Commission utilizes a substation automation system designed, developed and installed by Schweitzer Engineering Laboratories, Inc. The proper performance of this substation automation system is critical to the safe and reliable operation of the Commission’s high-voltage transmission and distribution system. The Commission has determined that the services of a qualified Company are required from time to time to support the Commission as it operates and maintains the substation automation system.

DEFINITIONS

As used in this agreement, unless the context otherwise requires, the words and terms defined in this section, when initially capitalized and used herein, whether in singular or plural, have the meanings ascribed to them in these definitions:

- A. “Agreement” means this Contract No. SA-12-01 for substation automation system support services.
- B. “Commission” means the Colorado River Commission of Nevada.
- C. “Company” means Schweitzer Engineering Laboratories, Inc.
- D. “Contract Manager” means the executive director of the Colorado River Commission of Nevada or her designee.

SERVICES TO BE PERFORMED

The services to be performed by the Company consist of programming, troubleshooting and modifying software associated with the substation automation system as may be required from time to time for the routine operation and maintenance of these items. Types of services that may be required of the Company are as follows:

- A. Updating of Human-Machine Interface (HMI) screens or updates utilizing the installed software on the system development node, and updating those HMI screens to operating nodes;
- B. Updating communication processor settings;
- C. Updating substation automation system database and set points;
- D. Troubleshooting from on-site and remote locations;
- E. Restoration of the substation automation system in the event software or a server is temporarily or permanently rendered inoperable; and/or,
- F. Other related activities associated with the substation automation system as may be requested by the Commission

During the term of the Agreement, the Commission may utilize the services of the Company on all or none of the services listed above.

TASK AUTHORIZATION

The work of the Company must be authorized on an individual task basis. Should the Commission require the Company to perform work pursuant to this agreement, the Commission shall request the Company to prepare and submit for approval a document entitled, "Task Authorization." Each Task Authorization must contain a:

- A. description of the work to be performed by the Company;
- B. list of the deliverables to be provided to the Commission;
- C. schedule for completing the assignment; and
- D. budget for the task.

The Company shall not proceed with any work pursuant to this Agreement unless the Contract Manager has first approved the Task Authorization associated with that work, and issued to the Company a notice to proceed with the work.

COMPENSATION FOR SERVICES

The total cost for the performance of all work described in this Agreement must not exceed Two Hundred Twenty Five Thousand Dollars and no cents (\$225,000.00) over the term of the contract.

For the performance of the services described in this Agreement, the Commission agrees to pay the Company as follows:

- A. For services performed by the Company's personnel, the hourly rates indicated in an approved Task Authorization. Those rates must include Company's direct salaries; overtime payroll costs; sick leave pay; vacation pay; holiday pay; and overhead, including taxes, profit and all other costs of doing business. The Company shall not charge the Commission for reproduction, printing, long distance telephone calls, testing apparatus, computer and computer-aided design and drafting (CADD) services. Those costs must be included in the hourly rates charged for the Company's employees.
- B. For services rendered by others as subcontractors to the Company, the Company shall charge only for the actual cost to the Company.
- C. Notwithstanding the cost to the Company, the Commission shall not pay, an amount greater than the amount for such expenses allowed for employees of the State of Nevada, for travel, per diem or subsistence, including airfare, food, lodging, automobile rental, commercial services and incidental expenses, of the Company, the Company's subcontractors or any other professional companies retained by Company to provide services under this Contract.
- D. Notwithstanding the cost to the Company, the Commission shall not pay the Company in an amount greater than the amount approved by the Contract Manager in any individual Task Authorization.

The Company shall deliver itemized monthly invoices to the Commission for work performed under any approved Task Authorization during the preceding month. The Commission shall pay the Company for the services provided under this Agreement during the preceding month within thirty days after the receipt of a correct invoice. The Commission shall not be obligated to pay interest to the Company if payment is not made within thirty days.

If the Commission questions some element of an invoice, that fact must be made known, in writing, to the Company as soon as possible. The Company will help resolve the question and transmit a revised invoice as necessary. Amounts not questioned by the Commission must be promptly paid.

ATTACHMENT BB

INSURANCE SCHEDULE

INDEMNIFICATION CLAUSE:

Company shall indemnify, hold harmless and, not excluding the State's right to participate, defend the State, its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against all liabilities, claims, actions, damages, losses, and expenses including without limitation reasonable attorneys' fees and costs, (hereinafter referred to collectively as "claims") for bodily injury or personal injury including death, or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Company or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such Company to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Company from and against any and all claims which are the result of the Company's actions. It is agreed that Company will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Company agrees to waive all rights of subrogation against the State, its officers, officials, agents and employees for losses arising from the work performed by the Company for the State.

INSURANCE REQUIREMENTS:

Company and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may directly arise from or in connection with the performance of the work hereunder by the Company, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State in no way warrants that the minimum limits contained herein are sufficient to protect the Company from liabilities that might arise out of the performance of the work under this contract by the Company, his agents, representatives, employees or subcontractors and Company is free to purchase additional insurance as may be determined necessary.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Company shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a "following form" basis.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage and broad form contractual liability coverage.

- General Aggregate
\$2,000,000
 - Products – Completed Operations Aggregate
\$1,000,000
 - Personal and Advertising Injury
\$1,000,000
 - Each Occurrence
\$1,000,000
- a. The policy shall be endorsed to include the following additional insured language: "The State of Nevada shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Company".

2. **Automobile Liability**

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL)	\$1,000,000/
\$2,000,000 Aggregate	

- a. The policy shall be endorsed to include the following additional insured language: "The State of Nevada shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Company, including automobiles owned, leased, hired or borrowed by the Company".

3. **Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$100,000
Disease – Each Employee	\$100,000
Disease – Policy Limit	\$500,000
Aggregate	\$2,000,000

- a. Policy shall contain a waiver of subrogation against the State of Nevada.
- b. This requirement shall not apply when a Company or subcontractor is exempt under N.R.S., **AND** when such Company or subcontractor executes the appropriate sole proprietor waiver form.

4. **Professional Liability (Errors and Omissions Liability)**

The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this contract.

Each Claim	\$1,000,000
Annual Aggregate	
\$2,000,000	

- a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Company warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

B. ADDITIONAL INSURANCE REQUIREMENTS: With the exception of **Workers Compensation and Professional Liability, the policies shall include, or be endorsed to include, the following provisions:**

1. On insurance policies where the State of Nevada, Colorado River Commission is named as an additional insured, the State of Nevada shall be an additional insured to the full limits of liability purchased by the Company even if those limits of liability are in excess of those required by this Contract.
2. The Company's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

C. NOTICE OF CANCELLATION: Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the State, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to:

**Jayne Harkins, P.E., Executive Director
Colorado River Commission of Nevada
555 East Washington Ave., Suite 3100
Las Vegas, Nevada 89101**

D. ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Nevada and with an "A.M. Best" rating of not less than A-VII. The State in no way warrants that the above-required minimum insurer rating is sufficient to protect the Company from potential insurer insolvency.

E. VERIFICATION OF COVERAGE: Company shall furnish the State with certificates of insurance (ACORD form or equivalent approved by the State) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the State before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be sent directly to **(Jayne Harkins, Executive Director, Colorado River Commission of Nevada, 555 E. Washington Avenue, Las Vegas, NV 89101)**. The State project/contract number and project description shall be noted on the certificate of insurance. The State reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

- F. **SUBCONTRACTORS:** Company certificate(s) shall include all subcontractors as additional insureds under its policies or Contractor shall furnish to the State separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

- G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the Risk Management Division or the Attorney General's Office, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

**CONTRACT NO. SA-12-01
SUBSTATION AUTOMATION SYSTEM
SUPPORT SERVICES**

A Contract Between the State of Nevada

Acting By and Through Its

Colorado River Commission of Nevada
555 E. Washington Avenue, Suite 3100
Las Vegas, Nevada 89101-1065

and

Schweitzer Engineering Laboratories, Inc.
2350 NE Hopkins Court
Pullman, Washington 99163-5603

1. REQUIRED APPROVAL. This Contract shall become effective upon the date of execution by the Colorado River Commission of Nevada (“Commission”) and Schweitzer Engineering Laboratories, Inc. (“Company”) (collectively referred to herein as “the Parties”), following approval of the Contract by the Commission.

2. DEFINITIONS. “State” means the State of Nevada and any state agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307. “Fiscal Year” is defined as the period beginning July 1 and ending June 30 of the following year.

3. CONTRACT TERM. This Contract shall be effective on the date of its execution and shall remain in effect until June 30, 2015, unless sooner terminated by either party as specified in paragraph ten (10).

4. NOTICE. All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party as follows:

Notices to the Commission shall be provided to the following authorized representatives for each of the Parties:

Robert D. Reese
Assistant Director of Engineering and Operations and,
in his absence, Ron Pretasky, the Power Facilities Manager
Colorado River Commission of Nevada
555 E. Washington Ave., Suite 3100
Las Vegas, NV 89101-1065
Phone: (702) 856-3611
Fax: (702) 856-3617
Email: breese@crc.nv.gov

Notices to the Company shall be provided to:

Nancy L. Hindman
Chief Operating Officer
2350m NE Hopkins Court
Pullman, WA 99163-5603
Phone: 509-332-1890
FAX: 509-334-4946 or 509-332-7990
Email: contracts_and_risk@selinc.com

5. MUTUAL UNDERSTANDING: The work shall be provided to Commission by Company pursuant to Attachment AA-Scope of Work as incorporated hereunder and through approved Task Authorizations as indicated in Attachment AA, which Company may from time to time submit. The work required to be performed consists of the work specified in the specifically approved Task Authorization. No Task Authorization or changes thereto shall be effective without written approval by the Commission's authorized representative and shall thereafter become a part of this Contract. Each such Task Authorization shall be effective upon approval from the Commission's authorized representative.

6. INCORPORATED DOCUMENTS. The parties agree to the scope of work described in Attachment AA. This Contract incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT AA:	SCOPE OF WORK; AND
ATTACHMENT BB:	INSURANCE SCHEDULE

A Company's Attachment shall not contradict or supersede any State specifications, terms or conditions without written evidence of mutual assent to such change appearing in this Contract.

7. CONSIDERATION. The parties agree that Company will provide the services specified in the Attachment AA-Scope of Work for a combined total not-to-exceed cost of Two Hundred Twenty Five Thousand Dollars and no cents (\$225,000.00) over the term of this Contract. The State agrees to reimburse Company for expenses as specified in the incorporated attachments and approved in the Task Authorization. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require and in accordance with Section 11 (b) of this Contract.

8. ASSENT. The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations specified.

9. TIMELINESS OF BILLING SUBMISSION. The parties agree that timeliness of billing is of the essence to the contract and recognize that the State is on a fiscal year. All billings for dates of service prior to July 1 must be submitted to the State no later than the first Friday in August of the same calendar year. A billing submitted after the first Friday in August, which forces the State to process the billing as a stale claim pursuant to NRS 353.097, will subject the Company to an administrative fee not to exceed one hundred dollars (\$100.00). The parties hereby agree this is a reasonable estimate of the additional costs to the State of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to the Company.

10. INSPECTION & AUDIT.

a. Books and Records. Company agrees to keep and maintain under generally accepted accounting principles (GAAP) full, true and complete records, contracts, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.

b. Inspection & Audit. Company agrees that the relevant books, records (written, electronic, computer related or otherwise), including, without limitation, relevant accounting procedures and practices of Company or its subcontractors, financial statements specifically related to the project, (excluding company financial statements and reports related to general business operations and productivity and components of any fixed rates.) and supporting documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Company where such records may be found, with or without notice by the State Auditor, the relevant state agency or its contracted examiners, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of

the Inspector General, or any of their authorized representatives. All subcontracts shall reflect requirements of this paragraph.

c. Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained a minimum three (3) years, and for five (5) years if any federal funds are used pursuant to the Contract. The retention period runs from the date of payment for the relevant goods or services by the State, or from the date of termination of the Contract, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

11. CONTRACT TERMINATION. Unless otherwise specified, termination shall not be effective until 30 calendar days after a party has served written notice of termination for default, or notice of termination without cause upon the other party.

a. Termination Without Cause. Any discretionary or vested right of renewal notwithstanding, this Contract may be terminated upon written notice by mutual consent of both parties, or unilaterally by either party without cause. Commission shall compensate Company for any authorized expenses incurred prior to the date of termination. Authorization shall be deemed to have been given if such expense was incorporated in the price of the project upon approval of the Task Authorization by the Commission's authorized representative.

b. State Termination for Non-appropriation. The continuation of this Contract beyond the current biennium may be subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the State Legislature and/or federal sources. The State may terminate this Contract, and Company waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the Commission's funding is not appropriated or is withdrawn, limited, or impaired. Commission shall pay for all services provided which were specifically authorized through the termination date. Authorization shall be deemed to have been given if such expense was incorporated in the price of the project upon approval of the Task Authorization by the Commission's authorized representative.

c. Cause Termination for Default or Breach. A default or breach may be declared with or without termination. This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:

- i. If Company fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or
- ii. If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Company to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or

- iii. If Company becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or
- iv. If the State materially breaches any material duty under this Contract and any such breach impairs Company's ability to perform; or
- v. If it is found by the State that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by Company, or any agent or representative of Company, to any officer or employee of the State of Nevada with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or
- vi. If it is found by the State that Company has failed to disclose any material conflict of interest relative to the performance of this Contract.

d. Time to Correct. Termination upon a declared default or breach may be exercised only after service of formal written notice as specified in paragraph four (4), and the subsequent failure of the defaulting party within thirty (30) calendar days of receipt of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.

e. Winding Up Affairs Upon Termination. In the event of termination of this Contract for any reason, the parties agree that the provisions of this paragraph survive termination:

- i. The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
- ii. Company shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by the Commission with the understanding that payment for such work will be made in accordance with the terms of this Contract;
- iii. Company shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by the Commission;
- iv. Company shall preserve, protect and promptly deliver into State possession all non-proprietary information in accordance with paragraph twenty-two (22).

12. REMEDIES. Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall include without limitation one hundred and twenty-five dollars (\$125.00) per hour for State-employed attorneys. The State may set off consideration against any unpaid obligation of Company to any State agency in accordance with NRS 353C.190. In the event that the Company voluntarily or involuntarily becomes subject to the jurisdiction of the Bankruptcy court, the State may set off consideration against any unpaid obligation of Company to the State or its agencies, to the extent allowed by bankruptcy law, without regard to whether the procedures of NRS 353C.190 have been utilized.

13. LIMITED LIABILITY. The State will not waive and intends to assert available NRS chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise specified in the incorporated attachments. Damages for any State breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to Company, for the fiscal year budget in existence at the time of the breach. Damages for any Company breach shall not exceed one hundred percent (100%) of the contract maximum "not to exceed" value. Company's tort liability shall not be limited. In no event, whether as a result of breach of contract, indemnity, warranty, tort (including negligence), strict liability or otherwise, shall Company be liable for any special, consequential, incidental, liquidated or punitive damages not due to its own actions, including without limitation any loss of profit or revenues, loss of use of products or associated equipment, damage to associated equipment, cost of capital, cost of substitute products, facilities, services or replacement power, downtime costs or claims of State or Commission's customers for such damages, provided that company has performed in accordance with industry standards.

14. FORCE MAJEURE. Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Contract after the intervening cause ceases.

15. INDEMNIFICATION. To the fullest extent permitted by law Company shall indemnify, hold harmless and defend, not excluding the State's right to participate, the State from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of negligent or willful acts or omissions of Company, its officers, employees and agents.

16. GENERAL COMPANY DUTIES. In addition to all other duties prescribed by this Contract, including but not limited to those set forth in the Scope of Work, Company has the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for the State whatsoever with respect to the indebtedness, liabilities, and obligations of Company or any other party. Company shall be solely responsible for, and the State shall have no obligation with respect to: (1) withholding of income taxes, FICA or any other personnel taxes or fees; (2) industrial insurance coverage; (3) participation in any group insurance plans available to employees of the State; (4) participation or contributions by either contract or the State to the Public Employees Retirement System; (5) accumulation of vacation leave or sick leave; or (6) unemployment compensation coverage provided by the State. Company shall indemnify and

hold State harmless from, and defend State against, any and all losses, damages, claims, costs, penalties, liabilities, and expenses arising or incurred because of such taxes or fees. Neither Company nor its employees, agents, nor representatives shall be considered employees, agents, or representatives of the State.

17. INSURANCE SCHEDULE. Unless expressly waived in writing by the State, Company must carry policies of insurance and pay all taxes and fees incident hereunto. Policies shall meet the terms and conditions as specified within this Contract along with the additional limits and provisions as described in Attachment BB, incorporated hereto by attachment. The State shall have no liability except as specifically provided in the Contract.

The Company shall not commence work before:

- 1) Company has provided the required evidence of insurance to the Commission, and
- 2) The State has approved the insurance policies provided by the Company.

Prior approval of the insurance policies by the State shall be a condition precedent to any payment of consideration under this Contract and the State's approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent this Contract. Any failure of the State to timely approve shall not constitute a waiver of the condition.

Insurance Coverage: The Company shall, at the Company's sole expense, procure, maintain and keep in force for the duration of the Contract insurance conforming to the minimum limits as specified in Attachment BB, incorporated hereto by attachment. Unless specifically stated herein or otherwise agreed to by the State, the required insurance shall be in effect prior to the commencement of work by the Company and shall continue in force as appropriate until:

1. Final acceptance by the State of the completion of this Contract; or
 2. Such time as the insurance is no longer required by the State under the terms of this Contract;
- whichever occurs later.

Any insurance or self-insurance available to the State shall be in excess of, and non-contributing with, any insurance required from Company. Company's insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by the State, Company shall provide the State with renewal or replacement evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as Company has knowledge of any such failure, Company shall immediately notify the State and immediately replace such insurance or bond with an insurer meeting the requirements.

General Requirements:

- a. Additional Insured: By endorsement to the Company's general liability insurance policy, the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 shall be named as additional insureds for liability arising from the Contract as to Company's Commercial, General and Automobile insurance coverage.
- b. Waiver of Subrogation: Each insurance policy shall provide for a waiver of subrogation against the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 for losses arising from work/materials/equipment performed or provided by or on behalf of the Company.
- c. Cross-Liability: All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.
- d. Deductibles and Self-Insured Retentions: Insurance maintained by Company shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by the State. Such approval shall not relieve Company from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed fifty thousand dollars (\$50,000.00) per occurrence, unless otherwise approved by the Risk Management Division. Aggregate totals shall not exceed \$2,000,000.
- e. Policy Cancellation: Except for ten (10) days notice for non-payment of premium, each insurance policy shall be endorsed to state that without thirty (30) days prior written notice to the State of Nevada, c/o the Commission, the policy shall not be canceled, non-renewed or coverage and /or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mailed to the address shown on page one (1) of this contract:
- f. Approved Insurer: Each insurance policy shall be:
 - 1) Issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers acceptable to the State and having agents in Nevada upon whom service of process may be made; and
 - 2) Currently rated by A.M. Best as "A-VII" or better.

Evidence of Insurance:

Prior to the start of any Work, Company must provide the following documents to the contracting State agency:

- 1) Certificate of Insurance: The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to the State to evidence the insurance policies and coverages required of Company. The certificate must name the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 as the certificate holder. The certificate should be signed by a person authorized insurer to bind coverage on its behalf. The state project/contract number; description and contract effective dates shall be noted on the

certificate, and upon renewal of the policies listed Company shall furnish the State with replacement certificates as described within Insurance Coverage, section noted above.

Mail all required insurance documents to the Commission representative identified in paragraph 4 of this Contract.

2) Additional Insured Endorsement: An Additional Insured Endorsement (CG 20 10 11 85 or CG 20 26 11 85), signed by an authorized insurance company representative, must be submitted to the State to evidence the endorsement of the State as an additional insured per General Requirements, subsection a, above.

3) Schedule of Underlying Insurance Policies: If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the Underlycr Schedule from the Umbrella or Excess insurance policy may be required.

4) Review and Approval: Documents specified above must be submitted for review and approval by the State prior to the commencement of work by Company. Neither approval by the State nor failure to disapprove the insurance furnished by Company shall relieve Company of Company's full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of Company or its sub-contractors, employees or agents to the State or others, and shall be in addition to and not in lieu of any other remedy available to the State under this Contract. The State reserves the right to request and review a copy of any required insurance endorsement to assure compliance with these requirements.

18. COMPLIANCE WITH LEGAL OBLIGATIONS. Company shall procure and maintain for the duration of this Contract any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Company to provide the goods or services required by this Contract. Company will be responsible to pay all personnel taxes assessments, fees, premiums, permits, and licenses required by law. Real property and personal property taxes are the responsibility of Company in accordance with NRS 361.157 and NRS 361.159. Company agrees to be responsible for payment of any such government obligations not paid by its sub-contractors during performance of this Contract. The State may set-off against consideration due any delinquent government obligation in accordance with NRS 353C.190.

19. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

20. SEVERABILITY. If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the

non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

21. ASSIGNMENT/DELEGATION. To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by State, such offending portion of the assignment shall be void, and shall be a breach of this Contract. Company shall neither assign, transfer nor delegate any rights, obligations nor duties under this Contract without the prior written consent of the Commission.

22. STATE OWNERSHIP OF PROPRIETARY INFORMATION. Any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under the Contract), or any other documents or drawings, prepared or in the course of preparation by Company (or its sub-contractors) in performance of its obligations under this Contract ("Work Product") shall be the property of the Company. The Work Product shall be delivered into State possession by Company upon completion, termination, or cancellation of this Contract. Company grants the Commission a revocable, royalty free, license to use such Work Product for Commission's internal non-commercial purposes. The Commission shall have no proprietary interest in any materials licensed for use by the Company that are subject to patent, trademark or copyright protection.

23. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents received from Company may be open to public inspection and copying. The State has a legal obligation to disclose such information unless a particular record is made confidential by law or a common law balancing of interests. Company may label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 333.333, provided that Company thereby agrees to indemnify and defend the State for honoring such a designation. The failure to so label any document that is released by the State shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

24. CONFIDENTIALITY. The parties shall keep confidential all information provided by one party to the other, in whatever form, produced, prepared, observed or received to the extent that such information is confidential by law or otherwise required by this Contract. In the performance of the Task Authorization and/or this Contract, a party may receive documents, materials, data and other confidential information of the other party. The receiving party shall use confidential information solely in performance of the work performed under this Contract. The receiving party shall use at least the same degree of care (and, in any event, not less than a reasonable degree of care) in protecting the disclosing party's confidential information as it exercises in protecting its own similar confidential information. Confidential information shall be subject to these terms for three (3) years following receipt of such confidential information. Confidentiality obligations shall survive the termination of this Contract.

25. LOBBYING. The Parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

- a. Any federal, state, county or local agency, legislature, commission, council or board;
- b. Any federal, state, county or local legislator, commission member, council member, board member, or other elected official; or
- c. Any officer or employee of any federal, state, county or local agency; legislature, commission, council or board.

26. WARRANTIES.

a. General Warranty. Company warrants that all services, deliverables, and/or work product under this Contract shall be completed in a workmanlike manner consistent with standards in the trade, profession, or industry; shall conform to or exceed the specifications set forth in the incorporated attachments; and shall be fit for ordinary use, of good quality, with no material defects.

b. System Compliance. Company warrants that any information system application(s) shall not experience abnormally ending and/or invalid and/or incorrect results from the application(s) in the operating and testing of the business of the Commission. This warranty includes, without limitation, century recognition, calculations that accommodate same century and multi-century formulas and data values and date data interface values that reflect the century. Company shall reperform (or, at Company's option, pay a third party to reperform) any defective services at no cost upon receipt of notice detailing the defect(s) within one (1) year of performance of the original services. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THIS WARRANTY SHALL BE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER STATUTORY, EXPRESS, VERBAL OR IMPLIED (INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE AND WARRANTIES ARISING FROM COURSE OF DEALING OR PERFORMANCE OR USAGE OF TRADE).

27. PROPER AUTHORITY. The Parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. Any services performed by Company before this Contract is effective or after it ceases to be effective are performed at the sole risk of Company.

28. GOVERNING LAW; JURISDICTION. This Contract and the rights and obligations of the Parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. The Parties' consent to the exclusive jurisdiction of the First Judicial District Court, Las Vegas, Nevada for enforcement of this Contract.

**CONTRACT NO. SA-12-01
SUBSTATION AUTOMATION SYSTEM
SUPPORT SERVICES**

Between
Colorado River Commission of Nevada
and
Schweitzer Engineering Laboratories, Inc.

ATTACHMENT AA

SCOPE OF WORK

BACKGROUND

The Colorado River Commission of Nevada (“Commission”) owns, operates and maintains a high-voltage transmission and distribution system consisting of two 230/69-kV substations, three 230/14.4-kV substations, four 69/13.8-kV substations, seven 69/4.16-kV substations, thirty-two miles of double-circuit 230-kV transmission lines, five miles of double-circuit 69-kV overhead transmission lines, eleven miles of double-circuit 69-kV underground transmission lines and other related facilities in Clark County, Nevada.

To provide for the remote operation, control, protection and monitoring of the high-voltage transmission and distribution system, the Commission utilizes a substation automation system designed, developed and installed by Schweitzer Engineering Laboratories, Inc. The proper performance of this substation automation system is critical to the safe and reliable operation of the Commission’s high-voltage transmission and distribution system. The Commission has determined that the services of a qualified Company are required from time to time to support the Commission as it operates and maintains the substation automation system.

DEFINITIONS

As used in this agreement, unless the context otherwise requires, the words and terms defined in this section, when initially capitalized and used herein, whether in singular or plural, have the meanings ascribed to them in these definitions:

- A. “Agreement” means this Contract No. SA-12-01 for substation automation system support services.
- B. “Commission” means the Colorado River Commission of Nevada.
- C. “Company” means Schweitzer Engineering Laboratories, Inc.
- D. “Contract Manager” means the executive director of the Colorado River Commission of Nevada or her designee.

SERVICES TO BE PERFORMED

The services to be performed by the Company consist of programming, troubleshooting and modifying software associated with the substation automation system as may be required from time to time for the routine operation and maintenance of these items. Types of services that may be required of the Company are as follows:

- A. Updating of Human-Machine Interface (HMI) screens or updates utilizing the installed software on the system development node, and updating those HMI screens to operating nodes;
- B. Updating communication processor settings;
- C. Updating substation automation system database and set points;
- D. Troubleshooting from on-site and remote locations;
- E. Restoration of the substation automation system in the event software or a server is temporarily or permanently rendered inoperable; and/or,
- F. Other related activities associated with the substation automation system as may be requested by the Commission

During the term of the Agreement, the Commission may utilize the services of the Company on all or none of the services listed above.

TASK AUTHORIZATION

The work of the Company must be authorized on an individual task basis. Should the Commission require the Company to perform work pursuant to this agreement, the Commission shall request the Company to prepare and submit for approval a document entitled, "Task Authorization." Each Task Authorization must contain a:

- A. description of the work to be performed by the Company;
- B. list of the deliverables to be provided to the Commission;
- C. schedule for completing the assignment; and
- D. budget for the task.

The Company shall not proceed with any work pursuant to this Agreement unless the Contract Manager has first approved the Task Authorization associated with that work, and issued to the Company a notice to proceed with the work.

COMPENSATION FOR SERVICES

The total cost for the performance of all work described in this Agreement must not exceed Two Hundred Twenty Five Thousand Dollars and no cents (\$225,000.00) over the term of the contract.

For the performance of the services described in this Agreement, the Commission agrees to pay the Company as follows:

- A. For services performed by the Company's personnel, the hourly rates indicated in an approved Task Authorization. Those rates must include Company's direct salaries; overtime payroll costs; sick leave pay; vacation pay; holiday pay; and overhead, including taxes, profit and all other costs of doing business. The Company shall not charge the Commission for reproduction, printing, long distance telephone calls, testing apparatus, computer and computer-aided design and drafting (CADD) services. Those costs must be included in the hourly rates charged for the Company's employees.
- B. For services rendered by others as subcontractors to the Company, the Company shall charge only for the actual cost to the Company.
- C. Notwithstanding the cost to the Company, the Commission shall not pay, an amount greater than the amount for such expenses allowed for employees of the State of Nevada, for travel, per diem or subsistence, including airfare, food, lodging, automobile rental, commercial services and incidental expenses, of the Company, the Company's subcontractors or any other professional companies retained by Company to provide services under this Contract.
- D. Notwithstanding the cost to the Company, the Commission shall not pay the Company in an amount greater than the amount approved by the Contract Manager in any individual Task Authorization.

The Company shall deliver itemized monthly invoices to the Commission for work performed under any approved Task Authorization during the preceding month. The Commission shall pay the Company for the services provided under this Agreement during the preceding month within thirty days after the receipt of a correct invoice. The Commission shall not be obligated to pay interest to the Company if payment is not made within thirty days.

If the Commission questions some element of an invoice, that fact must be made known, in writing, to the Company as soon as possible. The Company will help resolve the question and transmit a revised invoice as necessary. Amounts not questioned by the Commission must be promptly paid.

ATTACHMENT BB
INSURANCE SCHEDULE

INDEMNIFICATION CLAUSE:

Company shall indemnify, hold harmless and, not excluding the State's right to participate, defend the State, its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against all liabilities, claims, actions, damages, losses, and expenses including without limitation reasonable attorneys' fees and costs, (hereinafter referred to collectively as "claims") for bodily injury or personal injury including death, or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Company or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such Company to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Company from and against any and all claims which are the result of the Company's actions. It is agreed that Company will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Company agrees to waive all rights of subrogation against the State, its officers, officials, agents and employees for losses arising from the work performed by the Company for the State.

INSURANCE REQUIREMENTS:

Company and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may directly arise from or in connection with the performance of the work hereunder by the Company, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State in no way warrants that the minimum limits contained herein are sufficient to protect the Company from liabilities that might arise out of the performance of the work under this contract by the Company, his agents, representatives, employees or subcontractors and Company is free to purchase additional insurance as may be determined necessary.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Company shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a "following form" basis.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage and broad form contractual liability coverage.

- General Aggregate
\$2,000,000
- Products – Completed Operations Aggregate
\$1,000,000
- Personal and Advertising Injury
\$1,000,000
- Each Occurrence
\$1,000,000

a. The policy shall be endorsed to include the following additional insured language: "The State of Nevada shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Company".

2. Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL)	\$1,000,000/
\$2,000,000 Aggregate	

a. The policy shall be endorsed to include the following additional insured language: "The State of Nevada shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Company, including automobiles owned, leased, hired or borrowed by the Company".

3. Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$100,000
Disease – Each Employee	\$100,000
Disease – Policy Limit	\$500,000
Aggregate	\$2,000,000

- a. Policy shall contain a waiver of subrogation against the State of Nevada.
- b. This requirement shall not apply when a Company or subcontractor is exempt under N.R.S., **AND** when such Company or subcontractor executes the appropriate sole proprietor waiver form.

4. Professional Liability (Errors and Omissions Liability)

The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this contract.

Each Claim
Annual Aggregate
\$2,000,000

\$1,000,000

- a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Company warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

B. ADDITIONAL INSURANCE REQUIREMENTS: With the exception of **Workers Compensation and Professional Liability, the policies shall include, or be endorsed to include, the following provisions:**

1. On insurance policies where the State of Nevada, Colorado River Commission is named as an additional insured, the State of Nevada shall be an additional insured to the full limits of liability purchased by the Company even if those limits of liability are in excess of those required by this Contract.
2. The Company's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

C. NOTICE OF CANCELLATION: Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the State, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to:

**Jayne Harkins, P.E., Executive Director
Colorado River Commission of Nevada
555 East Washington Ave., Suite 3100
Las Vegas, Nevada 89101**

D. ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Nevada and with an "A.M. Best" rating of not less than A-VII. The State in no way warrants that the above-required minimum insurer rating is sufficient to protect the Company from potential insurer insolvency.

E. VERIFICATION OF COVERAGE: Company shall furnish the State with certificates of insurance (ACORD form or equivalent approved by the State) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the State before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be sent directly to **(Jayne Harkins, Executive Director, Colorado River Commission of Nevada, 555 E. Washington Avenue, Las Vegas, NV 89101)**. The State project/contract number and project description shall be noted on the certificate of insurance. The State reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

- F. **SUBCONTRACTORS:** Company certificate(s) shall include all subcontractors as additional insureds under its policies **or** Contractor shall furnish to the State separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

- G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the Risk Management Division or the Attorney General's Office, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 4/25/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement.

PRODUCER: Alliant Insurance Services, Inc. 818 W Riverside Ave Ste 800 Spokane, WA 99201
CONTACT NAME: Jennifer Mendenhall, CIC, CRM
PHONE: (509) 343-9219
FAX: (509) 325-1803
E-MAIL ADDRESS: Jennifer.Mendenhall@alliant.com
INSURER(S) AFFORDING COVERAGE: Zurich American Insurance Company, American Guarantee and Liability Insurance Company

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSD, SUBR WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Includes Commercial General Liability, Automobile Liability, Umbrella Liab, and Workers Compensation.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) Professional Liability - Errors & Omissions - Underwriters at Lloyd's London - Policy No. B0595EO1658202021 - Effective 6/30/2021 to 6/30/2022 - \$1,000,000 Each Claim Limit - \$2,000,000 Aggregate Limit

Colorado River Commission of Nevada and the State of Nevada are additional insured with respect to general liability and automobile liability for ongoing operations of the named insured per policy forms U-GL-2162-A CW (02/19) and U-CA-424-F CW (04/14). Forms attached. Waiver of subrogation applies per policy form WC000313 (4/84). Form attached.

CERTIFICATE HOLDER: Colorado River Commission of Nevada, 555 E Washington Avenue, Suite 3100 Las Vegas, NV 89101
CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
AUTHORIZED REPRESENTATIVE: [Signature]



Additional Insured – Automatic – Owners, Lessees Or Contractors

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Policy No. GLO933648710

Effective Date: 6/30/2021

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

A. Section II – Who Is An Insured is amended to include as an additional insured any person or organization whom you are required to add as an additional insured under a written contract or written agreement executed by you, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" and subject to the following:

1. If such written contract or written agreement specifically requires that you provide that the person or organization be named as an additional insured under one or both of the following endorsements:

- a. The Insurance Services Office (ISO) ISO CG 20 10 (10/01 edition); or
- b. The ISO CG 20 37 (10/01 edition),

such person or organization is then an additional insured with respect to such endorsement(s), but only to the extent that "bodily injury", "property damage" or "personal and advertising injury" arises out of:

- (1) Your ongoing operations, with respect to Paragraph 1.a. above; or
- (2) "Your work", with respect to Paragraph 1.b. above,

which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 1., insurance afforded to such additional insured:

- (a) Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement; and
- (b) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

2. If such written contract or written agreement specifically requires that you provide that the person or organization be named as an additional insured under one or both of the following endorsements:

- a. The Insurance Services Office (ISO) ISO CG 20 10 (07/04 edition); or
- b. The ISO CG 20 37 (07/04 edition),

such person or organization is then an additional insured with respect to such endorsement(s), but only to the extent that "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part, by:

- (1) Your acts or omissions; or
- (2) The acts or omissions of those acting on your behalf,

in the performance of:

- (a) Your ongoing operations, with respect to Paragraph 2.a. above; or
- (b) "Your work" and included in the "products-completed operations hazard", with respect to Paragraph 2.b. above,

which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 2., insurance afforded to such additional insured:

- (i) Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement; and
 - (ii) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.
3. If neither Paragraph 1. nor Paragraph 2. above apply and such written contract or written agreement requires that you provide that the person or organization be named as an additional insured:

- a. Under the ISO CG 20 10 (04/13 edition, any subsequent edition or if no edition date is specified); or
- b. With respect to ongoing operations (if no form is specified),

such person or organization is then an additional insured only to the extent that "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part by:

- (1) Your acts or omissions; or
- (2) The acts or omissions of those acting on your behalf,

in the performance of your ongoing operations, which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 3., insurance afforded to such additional insured:

- (a) Only applies to the extent permitted by law;
- (b) Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured; and
- (c) Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement.

4. If neither Paragraph 1. nor Paragraph 2. above apply and such written contract or written agreement requires that you provide that the person or organization be named as an additional insured:

- a. Under the ISO CG 20 37 (04/13 edition, any subsequent edition or if no edition date is specified); or
- b. With respect to the "products-completed operations hazard" (if no form is specified),

such person or organization is then an additional insured only to the extent that "bodily injury" or "property damage" is caused, in whole or in part by "your work" and included in the "products-completed operations hazard", which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 4., insurance afforded to such additional insured:

- (1) Only applies to the extent permitted by law;
- (2) Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured;
- (3) Only applies if the "bodily injury" or "property damage" occurs during the policy period and subsequent to your execution of the written contract or written agreement; and

(4) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

B. Solely with respect to the insurance afforded to any additional insured referenced in Section A. of this endorsement, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services including:

1. The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

C. Solely with respect to the coverage provided by this endorsement, the following is added to Paragraph 2. **Duties In The Event Of Occurrence, Offense, Claim Or Suit** of Section IV – **Commercial General Liability Conditions**:

The additional insured must see to it that:

- (1) We are notified as soon as practicable of an "occurrence" or offense that may result in a claim;
- (2) We receive written notice of a claim or "suit" as soon as practicable; and
- (3) A request for defense and indemnity of the claim or "suit" will promptly be brought against any policy issued by another insurer under which the additional insured may be an insured in any capacity. This provision does not apply to insurance on which the additional insured is a Named Insured if the written contract or written agreement requires that this coverage be primary and non-contributory.

D. Solely with respect to the coverage provided by this endorsement:

1. The following is added to the **Other Insurance** Condition of Section IV – **Commercial General Liability Conditions**:

Primary and Noncontributory insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured provided that:

- a. The additional insured is a Named Insured under such other insurance; and
- b. You are required by written contract or written agreement that this insurance be primary and not seek contribution from any other insurance available to the additional insured.

2. The following paragraph is added to Paragraph 4.b. of the **Other Insurance** Condition under Section IV – **Commercial General Liability Conditions**:

This insurance is excess over:

Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", offense, claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by a written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

E. This endorsement does not apply to an additional insured which has been added to this Coverage Part by an endorsement showing the additional insured in a Schedule of additional insureds, and which endorsement applies specifically to that identified additional insured.

F. Solely with respect to the insurance afforded to an additional insured under Paragraph **A.3.** or Paragraph **A.4.** of this endorsement, the following is added to Section **III – Limits Of Insurance**:

Additional Insured – Automatic – Owners, Lessees Or Contractors Limit

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the written contract or written agreement referenced in Section **A.** of this endorsement; or
2. Available under the applicable Limits of Insurance shown in the Declarations,
whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

All other terms, conditions, provisions and exclusions of this policy remain the same.



ZURICH®

Coverage Extension Endorsement

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer No.	Add'l. Prem	Return Prem.
BAP933661510	6/30/2021	6/30/2022	6/30/2021			

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the:

**Business Auto Coverage Form
Motor Carrier Coverage Form**

A. Amended Who Is An Insured

1. The following is added to the **Who Is An Insured** Provision in **Section II – Covered Autos Liability Coverage**:

The following are also "insureds":

- a. Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow for acts performed within the scope of employment by you. Any "employee" of yours is also an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.
- b. Anyone volunteering services to you is an "insured" while using a covered "auto" you don't own, hire or borrow to transport your clients or other persons in activities necessary to your business.
- c. Anyone else who furnishes an "auto" referenced in Paragraphs **A.1.a.** and **A.1.b.** in this endorsement.
- d. Where and to the extent permitted by law, any person(s) or organization(s) where required by written contract or written agreement with you executed prior to any "accident", including those person(s) or organization(s) directing your work pursuant to such written contract or written agreement with you, provided the "accident" arises out of operations governed by such contract or agreement and only up to the limits required in the written contract or written agreement, or the Limits of Insurance shown in the Declarations, whichever is less.

2. The following is added to the **Other Insurance** Condition in the Business Auto Coverage Form and the **Other Insurance – Primary and Excess Insurance Provisions Condition** in the Motor Carrier Coverage Form:

Coverage for any person(s) or organization(s), where required by written contract or written agreement with you executed prior to any "accident", will apply on a primary and non-contributory basis and any insurance maintained by the additional "insured" will apply on an excess basis. However, in no event will this coverage extend beyond the terms and conditions of the Coverage Form.

B. Amendment – Supplementary Payments

Paragraphs **a.(2)** and **a.(4)** of the **Coverage Extensions** Provision in **Section II – Covered Autos Liability Coverage** are replaced by the following:

- (2) Up to \$5,000 for the cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

C. Fellow Employee Coverage

The **Fellow Employee** Exclusion contained in **Section II – Covered Autos Liability Coverage** does not apply.

D. Driver Safety Program Liability and Physical Damage Coverage

1. The following is added to the **Racing** Exclusion in **Section II – Covered Autos Liability Coverage**:

This exclusion does not apply to covered "autos" participating in a driver safety program event, such as, but not limited to, auto or truck rodeos and other auto or truck agility demonstrations.

2. The following is added to Paragraph **2.** in the **Exclusions** of **Section III – Physical Damage Coverage** of the Business Auto Coverage Form and Paragraph **2.b.** in the **Exclusions** of **Section IV – Physical Damage Coverage** of the Motor Carrier Coverage Form:

This exclusion does not apply to covered "autos" participating in a driver safety program event, such as, but not limited to, auto or truck rodeos and other auto or truck agility demonstrations.

E. Lease or Loan Gap Coverage

The following is added to the **Coverage** Provision of the **Physical Damage Coverage** Section:

Lease Or Loan Gap Coverage

In the event of a total "loss" to a covered "auto", we will pay any unpaid amount due on the lease or loan for a covered "auto", less:

- a. Any amount paid under the **Physical Damage Coverage** Section of the Coverage Form; and
- b. Any:
 - (1) Overdue lease or loan payments at the time of the "loss";
 - (2) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
 - (3) Security deposits not returned by the lessor;
 - (4) Costs for extended warranties, credit life insurance, health, accident or disability insurance purchased with the loan or lease; and
 - (5) Carry-over balances from previous leases or loans.

F. Towing and Labor

Paragraph **A.2.** of the **Physical Damage Coverage** Section is replaced by the following:

We will pay up to \$75 for towing and labor costs incurred each time a covered "auto" of the private passenger type is disabled. However, the labor must be performed at the place of disablement.

G. Extended Glass Coverage

The following is added to Paragraph **A.3.a.** of the **Physical Damage Coverage** Section:

If glass must be replaced, the deductible shown in the Declarations will apply. However, if glass can be repaired and is actually repaired rather than replaced, the deductible will be waived. You have the option of having the glass repaired rather than replaced.

H. Hired Auto Physical Damage – Increased Loss of Use Expenses

The **Coverage Extension** for **Loss Of Use Expenses** in the **Physical Damage Coverage** Section is replaced by the following:

Loss Of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver under a written rental contract or written rental agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";
 - (2) Specified Causes Of Loss only if the Declarations indicate that Specified Causes Of Loss Coverage is provided for any covered "auto"; or
 - (3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered "auto".
- However, the most we will pay for any expenses for loss of use is \$100 per day, to a maximum of \$3000.

I. Personal Effects Coverage

The following is added to the **Coverage** Provision of the **Physical Damage Coverage** Section:

Personal Effects Coverage

- a. We will pay up to \$750 for "loss" to personal effects which are:
 - (1) Personal property owned by an "insured"; and
 - (2) In or on a covered "auto".
- b. Subject to Paragraph a. above, the amount to be paid for "loss" to personal effects will be based on the lesser of:
 - (1) The reasonable cost to replace; or
 - (2) The actual cash value.
- c. The coverage provided in Paragraphs a. and b. above, only applies in the event of a total theft of a covered "auto". No deductible applies to this coverage. However, we will not pay for "loss" to personal effects of any of the following:
 - (1) Accounts, bills, currency, deeds, evidence of debt, money, notes, securities, or commercial paper or other documents of value.
 - (2) Bullion, gold, silver, platinum, or other precious alloys or metals; furs or fur garments; jewelry, watches, precious or semi-precious stones.
 - (3) Paintings, statuary and other works of art.
 - (4) Contraband or property in the course of illegal transportation or trade.
 - (5) Tapes, records, discs or other similar devices used with audio, visual or data electronic equipment.

Any coverage provided by this Provision is excess over any other insurance coverage available for the same "loss".

J. Tapes, Records and Discs Coverage

- 1. The Exclusion in Paragraph **B.4.a.** of **Section III – Physical Damage Coverage** in the Business Auto Coverage Form and the Exclusion in Paragraph **B.2.c.** of **Section IV – Physical Damage Coverage** in the Motor Carrier Coverage Form does not apply.
- 2. The following is added to Paragraph **1.a. Comprehensive Coverage** under the **Coverage** Provision of the **Physical Damage Coverage** Section:

We will pay for "loss" to tapes, records, discs or other similar devices used with audio, visual or data electronic equipment. We will pay only if the tapes, records, discs or other similar audio, visual or data electronic devices:

- (a) Are the property of an "insured"; and
- (b) Are in a covered "auto" at the time of "loss".

The most we will pay for such "loss" to tapes, records, discs or other similar devices is \$500. The **Physical Damage Coverage Deductible** Provision does not apply to such "loss".

K. Airbag Coverage

The Exclusion in Paragraph **B.3.a.** of **Section III – Physical Damage Coverage** in the Business Auto Coverage Form and the Exclusion in Paragraph **B.4.a.** of **Section IV – Physical Damage Coverage** in the Motor Carrier Coverage Form does not apply to the accidental discharge of an airbag.

L. Two or More Deductibles

The following is added to the **Deductible** Provision of the **Physical Damage Coverage** Section:

If an accident is covered both by this policy or Coverage Form and by another policy or Coverage Form issued to you by us, the following applies for each covered "auto" on a per vehicle basis:

1. If the deductible on this policy or Coverage Form is the smaller (or smallest) deductible, it will be waived; or
2. If the deductible on this policy or Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

M. Physical Damage – Comprehensive Coverage – Deductible

The following is added to the **Deductible** Provision of the **Physical Damage Coverage** Section:

Regardless of the number of covered "autos" damaged or stolen, the maximum deductible that will be applied to Comprehensive Coverage for all "loss" from any one cause is \$5,000 or the deductible shown in the Declarations, whichever is greater.

N. Temporary Substitute Autos – Physical Damage

1. The following is added to **Section I – Covered Autos**:

Temporary Substitute Autos – Physical Damage

If Physical Damage Coverage is provided by this Coverage Form on your owned covered "autos", the following types of vehicles are also covered "autos" for Physical Damage Coverage:

Any "auto" you do not own when used with the permission of its owner as a temporary substitute for a covered "auto" you do own but is out of service because of its:

1. Breakdown;
 2. Repair;
 3. Servicing;
 4. "Loss"; or
 5. Destruction.
2. The following is added to the Paragraph **A. Coverage** Provision of the **Physical Damage Coverage** Section:

Temporary Substitute Autos – Physical Damage

We will pay the owner for "loss" to the temporary substitute "auto" unless the "loss" results from fraudulent acts or omissions on your part. If we make any payment to the owner, we will obtain the owner's rights against any other party.

The deductible for the temporary substitute "auto" will be the same as the deductible for the covered "auto" it replaces.

O. Amended Duties In The Event Of Accident, Claim, Suit Or Loss

Paragraph **a.** of the **Duties In The Event Of Accident, Claim, Suit Or Loss** Condition is replaced by the following:

- a.** In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident", claim, "suit" or "loss". However, these duties only apply when the "accident", claim, "suit" or "loss" is known to you (if you are an individual), a partner (if you are a partnership), a member (if you are a limited liability company) or an executive officer or insurance manager (if you are a corporation). The failure of any

agent, servant or employee of the "insured" to notify us of any "accident", claim, "suit" or "loss" shall not invalidate the insurance afforded by this policy.

Include, as soon as practicable:

- (1) How, when and where the "accident" or "loss" occurred and if a claim is made or "suit" is brought, written notice of the claim or "suit" including, but not limited to, the date and details of such claim or "suit";
- (2) The "insured's" name and address; and
- (3) To the extent possible, the names and addresses of any injured persons and witnesses.

If you report an "accident", claim, "suit" or "loss" to another insurer when you should have reported to us, your failure to report to us will not be seen as a violation of these amended duties provided you give us notice as soon as practicable after the fact of the delay becomes known to you.

P. Waiver of Transfer Of Rights Of Recovery Against Others To Us

The following is added to the **Transfer Of Rights Of Recovery Against Others To Us** Condition:

This Condition does not apply to the extent required of you by a written contract, executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by such contract. This waiver only applies to the person or organization designated in the contract.

Q. Employee Hired Autos – Physical Damage

Paragraph **b.** of the **Other Insurance** Condition in the Business Auto Coverage Form and Paragraph **f.** of the **Other Insurance – Primary and Excess Insurance Provisions** Condition in the Motor Carrier Coverage Form are replaced by the following:

For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented under a written contract or written agreement entered into by an "employee" or elected or appointed official with your permission while being operated within the course and scope of that "employee's" employment by you or that elected or appointed official's duties as respect their obligations to you.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

R. Unintentional Failure to Disclose Hazards

The following is added to the **Concealment, Misrepresentation Or Fraud** Condition:

However, we will not deny coverage under this Coverage Form if you unintentionally:

- (1) Fail to disclose any hazards existing at the inception date of this Coverage Form; or
- (2) Make an error, omission, improper description of "autos" or other misstatement of information.

You must notify us as soon as possible after the discovery of any hazards or any other information that was not provided to us prior to the acceptance of this policy.

S. Hired Auto – World Wide Coverage

Paragraph **7a.(5)** of the **Policy Period, Coverage Territory** Condition is replaced by the following:

- (5) Anywhere in the world if a covered "auto" is leased, hired, rented or borrowed for a period of 60 days or less,

T. Bodily Injury Redefined

The definition of "bodily injury" in the **Definitions** Section is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease, sustained by a person including death or mental anguish, resulting from any of these at any time. Mental anguish means any type of mental or emotional illness or disease.

U. Expected Or Intended Injury

The **Expected Or Intended Injury** Exclusion in Paragraph **B. Exclusions** under **Section II – Covered Auto Liability Coverage** is replaced by the following:

Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured". This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

V. Physical Damage – Additional Temporary Transportation Expense Coverage

Paragraph **A.4.a.** of **Section III – Physical Damage Coverage** is replaced by the following:

4. Coverage Extensions

a. Transportation Expenses

We will pay up to \$50 per day to a maximum of \$1,000 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

W. Replacement of a Private Passenger Auto with a Hybrid or Alternative Fuel Source Auto

The following is added to Paragraph **A. Coverage** of the **Physical Damage Coverage** Section:

In the event of a total "loss" to a covered "auto" of the private passenger type that is replaced with a hybrid "auto" or "auto" powered by an alternative fuel source of the private passenger type, we will pay an additional 10% of the cost of the replacement "auto", excluding tax, title, license, other fees and any aftermarket vehicle upgrades, up to a maximum of \$2500. The covered "auto" must be replaced by a hybrid "auto" or an "auto" powered by an alternative fuel source within 60 calendar days of the payment of the "loss" and evidenced by a bill of sale or new vehicle lease agreement.

To qualify as a hybrid "auto", the "auto" must be powered by a conventional gasoline engine and another source of propulsion power. The other source of propulsion power must be electric, hydrogen, propane, solar or natural gas, either compressed or liquefied. To qualify as an "auto" powered by an alternative fuel source, the "auto" must be powered by a source of propulsion power other than a conventional gasoline engine. An "auto" solely propelled by biofuel, gasoline or diesel fuel or any blend thereof is not an "auto" powered by an alternative fuel source.

X. Return of Stolen Automobile

The following is added to the **Coverage Extension** Provision of the **Physical Damage Coverage** Section:

If a covered "auto" is stolen and recovered, we will pay the cost of transport to return the "auto" to you. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage.

All other terms, conditions, provisions and exclusions of this policy remain the same.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

ALL PERSONS AND/OR ORGANIZATIONS THAT ARE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT WITH THE INSURED, EXECUTED PRIOR TO THE ACCIDENT OR LOSS, THAT WAIVER OF SUBROGATION BE PROVIDED UNDER THIS POLICY FOR WORK PERFORMED BY YOU FOR THAT PERSON AND/OR ORGANIZATION.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 6/30/2021 Policy No. WC933648811 Endorsement No. _____

Insured Schweitzer Engineering Laboratories, Inc. Premium \$ _____
SEL Engineering Services, Inc.

Insurance Company Zurich American Insurance Company Countersigned By _____

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM E
FOR MEETING OF JUNE 14, 2022**

SUBJECT:

For Possible Action: Consideration of and possible action to approve Amendment No. 3 to Contract SA-12-02, extending the contract term to June 30, 2025, for Substation Automation System Support Services between Survalent Technology Inc., and the Colorado River Commission of Nevada.

RELATED TO AGENDA ITEM:

None.

RECOMMENDATION OR RECOMMENDED MOTION:

Staff recommends the Commission approve the Amendment No. 3 to Contract No. SA-12-02 with Survalent Technology Corporation and authorize the Executive Director to sign it on behalf of the Commission.

FISAL IMPACT:

None.

STAFF COMMENTS AND BACKGROUND:

A. Request for Amendment of Contract:

The requested Amendment No. 3 is an extension of the contract for three more years to June 30, 2025 and there is no request to add any additional amount authorized under the contract. The current balance remaining on the contract is \$280,715 and that is expected to sufficient for the term of the extension.

B. Background on Operations

The Power Delivery Project's existing supervisory control and data acquisition system (SCADA) for its substations is separated into two key components: the automation system and the business enterprise system. The automation system enhances the Commission's ability to operate its transmission and distribution facilities, monitor equipment status and to respond to operational events.

The services of an outside vendor are needed from time to time for the routine operation and maintenance of the system such as programming, troubleshooting and modifying the computer systems associated with the automation system. Types of services that may be required include updating of Human-Machine Interface (HMI) screens or updates utilizing the installed software on the system development node, and updating those HMI screens to operating nodes; updating communication processor settings; updating substation automation system database and set points; troubleshooting from remote locations; and, restoration of the automation system in the event software or a server is temporarily or permanently rendered inoperable.

Staff anticipates the continued need for these substation automation system support services and therefore asks the Commission to approve an amendment to the contract with Survalent, in order to enable the Commission and its electric customers to continue to benefit from Survalent's proprietary software and to avoid the additional costs that would result from obtaining these services from a different contractor.

The contract with Survalent is an enabling type of contract which allows the Commission to use none or all of the services listed above. The work is authorized on an individual task basis. If the Commission requires the company to perform work, a "Task Authorization" is prepared and submitted for approval. A task authorization must contain a description of the work to be performed, a list of deliverables, a schedule for completing the assignment and a budget for the task.

AMENDMENT NO. 3
to
CONTRACT NO. SA-12-02
FOR
Substation Automation System Support Services

A Contract Between the State of Nevada
Acting By and Through Its

Colorado River Commission of Nevada
555 E. Washington Avenue, Suite 3100
Las Vegas, Nevada 89101-1065
Phone: (702) 486-2670
Fax: (702) 486-2695
Contact: Robert D. Reese
Email: breese@crc.nv.gov

and

Survalent Technology Inc
1967 Wehrle Drive, Suite 1
Buffalo, NY, 14221
Phone: 905-826-5000
Contact: Young Ngo
Email: yngo@survalent.com

1. AMENDMENTS. For and in consideration of mutual promises and/or their valuable consideration, all provisions of the Original Contract, dated May 8, 2012, Amendment No. 1 dated March 11, 2015, and Amendment No. 2, dated April 1, 2019, which is attached hereto as Exhibit A, remain in full force and effect with the exception of the following:

- A. The Contract Term, as set forth in Section 3 of the Original Contract, shall be extended for an additional three years.**

Current Contract Language:

3. CONTRACT TERM. This Contract shall be effective on the date of its execution and shall remain in effect until June 30, 2022, unless sooner terminated by either party as specified in paragraph ten (10).

Amended Contract Language:

3. CONTRACT TERM. This Amendment shall be effective on the date of its execution and shall remain in effect until June 30, 2025, unless sooner terminated by either party as specified in paragraph ten (10).

EXHIBIT A

AMENDMENT NO. 2
to
CONTRACT NO. SA-12-02
FOR
Substation Automation System Support Services

A Contract Between the State of Nevada
Acting By and Through Its

Colorado River Commission of Nevada
555 E. Washington Avenue, Suite 3100
Las Vegas, Nevada 89101-1065
Phone: (702) 486-2670
Fax: (702) 486-2695
Contact: Robert D. Reese
Email: breese@crc.nv.gov

and

Survalent Technology Corporation
7965 Heritage Road
Brampton, Ontario
L6Y 5X5 Canada
Phone: 303-517-0435
Fax: 905-826-7144
Contact: Jason Rohlfing
Email: jrohlfig@survalent.com

1. **AMENDMENTS.** For and in consideration of mutual promises and/or their valuable consideration, all provisions of the Original Contract, dated May 8, 2012, and Amendment No. 1 dated March 11, 2015 which is attached hereto as Exhibit A, remain in full force and effect with the exception of the following:

- A. **The Contract Term, as set forth in Section 3 of the Original Contract, shall be extended for an additional three years.**
- B. **The Contract cost set forth in Section 6 of the Original Contract, shall be increased by \$100,000.00 to the not-to-exceed amount of \$575,000.00.**

Current Contract Language:

3. **CONTRACT TERM.** This Contract shall be effective on the date of its execution and shall remain in effect until June 30, 2019, unless sooner terminated by either party as specified in paragraph ten (10).

6. **CONSIDERATION.** The parties agree that Company will provide the services specified in the Scope of Work at a not-to-exceed cost of **Four Hundred Seventy-Five Thousand Dollars and no cents (\$475,000.00)** over the term of the contract. The State does not agree to reimburse Company for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic

renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require.

Amended Contract Language:

3. **CONTRACT TERM.** This Amendment shall be effective on the date of its execution and shall remain in effect until June 30, 2022, unless sooner terminated by either party as specified in paragraph ten (10).


6. **CONSIDERATION.** The parties agree that Company will provide the services specified in the Scope of Work at a not-to-exceed cost of **Five Hundred Seventy-Five Thousand Dollars and no cents (\$575,000.00)** over the term of the contract. The State does not agree to reimburse Company for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require.

2. **INCORPORATED DOCUMENTS.** Exhibit A (Original Contract and Amendment No. 1) is attached hereto, incorporated by reference herein and made a part of this amended contract.

3. **REQUIRED APPROVAL.** This amendment to the original contract shall not become effective upon approval by all parties.

IN WITNESS WHEREOF, the parties hereto have caused this amendment to the original contract to be signed and intend to be legally bound thereby.

SURVALENT TECHNOLOGY CORPORATION



David Felice
Regional Vice President of Sales,
Western U.S.

3/8/2019
Date

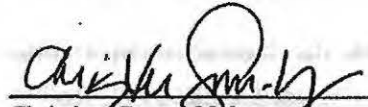
COLORADO RIVER COMMISSION OF NEVADA



Eric Witkoski
Deputy Executive Director

4-1-19
Date

Approved as to form by:



Christine Guerci-Nyhus
Deputy Attorney General for Attorney General

4/2/19
Date

**AMENDMENT NO. 1
TO
CONTRACT NO. SA-12-02
Substation Automation System Support Services
Between the State of Nevada
Acting By and Through Its**

Colorado River Commission of Nevada
555 E. Washington Avenue, Suite 3100
Las Vegas, Nevada 89101-1065
Contact: Robert D. Reese
Phone: (702) 682-6972
Fax: (702) 856-3617
Email: breese@crc.nv.gov

and

Survalent Technology Corporation
2600 Argentia Road
Mississauga, Ontario
L5N5V4 Canada
Contact: Edward Kobeszka
Phone: 314-779-6927
Fax: (905) 826-7144
Email: ekobeszka@survalent.com

1. **AMENDMENTS.** For and in consideration of mutual promises and/or their valuable consideration, all provisions of the Original Contract, dated May 8, 2012, which is attached hereto as Exhibit A, remain in full force and effect with the exception of the following:

A. The Contract Term, as set forth in Section 3 of the Original Contract, shall be extended for an additional four years.

B. The Contract cost set forth in Section 6 of the Original Contract shall be increased by \$250,000.00 to the not-to-exceed amount of \$475,000.00.

Current Contract Language:

3. **CONTRACT TERM.** This Contract shall be effective on the date of its execution and shall remain in effect until May 31, 2015, unless sooner terminated by either party as specified in paragraph ten (10).

6. **CONSIDERATION.** The parties agree that Company will provide the services specified in the Scope of Work at a not-to-exceed cost of Two Hundred Twenty Five Thousand Dollars and no cents (\$225,000.00) over the term of the contract. The State does not agree to reimburse Company for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial

appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require.

Amended Contract Language:

3. **CONTRACT TERM.** This Amendment shall be effective on the date of its execution and shall remain in effect until May 31, 2019, unless sooner terminated by either party as specified in paragraph ten (10).


6. **CONSIDERATION.** The parties agree that Company will provide the services specified in the Scope of Work at a not-to-exceed cost of **Four Hundred Seventy-Five Thousand Dollars and no cents (\$475,000.00)** over the term of the contract. The State does not agree to reimburse Company for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require.

2. **INCORPORATED DOCUMENTS.** Exhibit A (Original Contract) is attached hereto, incorporated by reference herein and made a part of this amended contract.

3. **REQUIRED APPROVAL.** This amendment to the original contract shall not become effective upon approval by all parties.

IN WITNESS WHEREOF, the parties hereto have caused this amendment to the original contract to be signed and intend to be legally bound thereby.

SURVALENT TECHNOLOGY

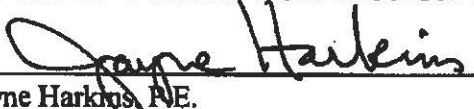


Edward J. Kobeszka
Vice President of Sales, Western U.S.

2-23-2015

Date

COLORADO RIVER COMMISSION OF NEVADA

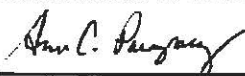


Jayne Harkins, PE.
Executive Director

3/11/15

Date

Approved as to form by:



Ann C. Pongracz
Special Counsel to the
Colorado River Commission of Nevada

2/25/2015

Date

EXHIBIT A

Original Contract

**CONTRACT NO. SA-12-02
SUBSTATION AUTOMATION SYSTEM
SUPPORT SERVICES**

A Contract Between the State of Nevada

Acting By and Through Its

Colorado River Commission of Nevada
555 E. Washington Avenue, Suite 3100
Las Vegas, Nevada 89101-1065

and

Survalent Technology Corporation
2600 Argentia Road
Mississauga, Ontario
L5N 5V4 Canada

1. REQUIRED APPROVAL. This Contract shall become effective upon the date of execution by the Colorado River Commission of Nevada ("Commission") and Survalent Technology Corporation ("Company") (collectively referred to herein as "the Parties"), following approval of the Contract by the Commission.

2. DEFINITIONS. "State" means the State of Nevada and any state agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307. "Fiscal Year" is defined as the period beginning July 1 and ending June 30 of the following year.

3. CONTRACT TERM. This Contract shall be effective on the date of its execution and shall remain in effect until May 31, 2015, unless sooner terminated by either party as specified in paragraph ten (10).

4. NOTICE. Unless otherwise specified, termination shall not be effective until 30 calendar days after a party has served written notice of termination for default, or notice of termination without cause upon the other party. All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party as follows:

Notices to the Commission shall be provided to:

Robert D. Reese
Assistant Director of Engineering and Operations and,
in his absence, Ron Pretasky, the Power Facilities Manager
Colorado River Commission of Nevada
555 E. Washington Ave., Suite 3100
Las Vegas, NV 89101-1065
Phone: (702) 856-3611
Fax: (702) 856-3617
Email: breese@crc.nv.gov

Notices to the Company shall be provided to:

Joe DeFilippis
Systems Engineering & Inside Sales Manager and,
in his absence, Weijun Ren, Inside Sales Engineer
Survalent Technology Corporation
2600 Argentia Road
Mississauga, Ontario
L5N 5V4
Canada
Phone: (905) 826-5000
Fax: (905) 826-7144
Email: joed@survalent.com

5. INCORPORATED DOCUMENTS. The parties agree to the scope of work described in Attachment AA. This Contract incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT AA:	SCOPE OF WORK; AND
ATTACHMENT BB:	INSURANCE SCHEDULE

A Company's Attachment shall not contradict or supersede any State specifications, terms or conditions without written evidence of mutual assent to such change appearing in this Contract.

6. CONSIDERATION. The parties agree that Company will provide the services specified in the Scope of Work at a not-to-exceed cost of Two Hundred Twenty Five Thousand Dollars and no cents (\$225,000.00) over the term of the contract. The State does not agree to reimburse Company for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a

biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require.

7. ASSENT. The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations specified.

8. TIMELINESS OF BILLING SUBMISSION. The parties agree that timeliness of billing is of the essence to the contract and recognize that the State is on a fiscal year. All billings for dates of service prior to July 1 must be submitted to the State no later than the first Friday in August of the same calendar year. A billing submitted after the first Friday in August, which forces the State to process the billing as a stale claim pursuant to NRS 353.097, will subject the Company to an administrative fee not to exceed one hundred dollars (\$100.00). The parties hereby agree this is a reasonable estimate of the additional costs to the State of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to the Company.

9. INSPECTION & AUDIT.

a. Books and Records. Company agrees to keep and maintain under generally accepted accounting principles (GAAP) full, true and complete records, contracts, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.

b. Inspection & Audit. Company agrees that the relevant books, records (written, electronic, computer related or otherwise), including, without limitation, relevant accounting procedures and practices of Company or its subcontractors, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Company where such records may be found, with or without notice by the State Auditor, the relevant state agency or its contracted examiners, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives. All subcontracts shall reflect requirements of this paragraph.

c. Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained a minimum three (3) years, and for five (5) years if any federal funds are used pursuant to the Contract. The retention period runs from the date of payment for the relevant goods or services by the State, or from the date of termination of the Contract, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

10. CONTRACT TERMINATION.

a. Termination Without Cause. Any discretionary or vested right of renewal notwithstanding, this Contract may be terminated upon written notice by mutual consent of both parties, or unilaterally by either party without cause.

b. State Termination for Non-appropriation. The continuation of this Contract beyond the current biennium may be subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the State Legislature and/or federal sources. The State may terminate this Contract, and Company waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the Commission's funding is not appropriated or is withdrawn, limited, or impaired.

c. Cause Termination for Default or Breach. A default or breach may be declared with or without termination. This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:

i. If Company fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or

ii. If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Company to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or

iii. If Company becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or

iv. If the State materially breaches any material duty under this Contract and any such breach impairs Company's ability to perform; or

v. If it is found by the State that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by Company, or any agent or representative of Company, to any officer or employee of the State of Nevada with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or

vi. If it is found by the State that Company has failed to disclose any material conflict of interest relative to the performance of this Contract.

d. Time to Correct. Termination upon a declared default or breach may be exercised only after service of formal written notice as specified in paragraph four (4), and the subsequent failure of the defaulting party within fifteen (15) calendar days of receipt of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.

e. Winding Up Affairs Upon Termination. In the event of termination of this Contract for any reason, the parties agree that the provisions of this paragraph survive termination:

i. The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;

- ii. Company shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by the Commission;
- iii. Company shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by the Commission;
- iv. Company shall preserve, protect and promptly deliver into State possession all proprietary information in accordance with paragraph twenty-one (21).

11. REMEDIES. Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall include without limitation one hundred and twenty-five dollars (\$125.00) per hour for State-employed attorneys. The State may set off consideration against any unpaid obligation of Company to any State agency in accordance with NRS 353C.190. In the event that the Company voluntarily or involuntarily becomes subject to the jurisdiction of the Bankruptcy court, the State may set off consideration against any unpaid obligation of Company to the State or its agencies, to the extent allowed by bankruptcy law, without regard to whether the procedures of NRS 353C.190 have been utilized.

12. LIMITED LIABILITY. The State will not waive and intends to assert available NRS chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise specified in the incorporated attachments. Damages for any State breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to Company, for the fiscal year budget in existence at the time of the breach. Damages for any Company breach shall not exceed one hundred and fifty percent (150%) of the contract maximum "not to exceed" value. Company's tort liability shall not be limited.

13. FORCE MAJEURE. Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Contract after the intervening cause ceases.

14. INDEMNIFICATION. To the fullest extent permitted by law Company shall indemnify, hold harmless and defend, not excluding the State's right to participate, the State from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of Company, its officers, employees and agents.

15. **GENERAL COMPANY DUTIES.** In addition to all other duties prescribed by this Contract, including but not limited to those set forth in the Scope of Work, Company has the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for the State whatsoever with respect to the indebtedness, liabilities, and obligations of Company or any other party. Company shall be solely responsible for, and the State shall have no obligation with respect to: (1) withholding of income taxes, FICA or any other taxes or fees; (2) industrial insurance coverage; (3) participation in any group insurance plans available to employees of the State; (4) participation or contributions by either contract or the State to the Public Employees Retirement System; (5) accumulation of vacation leave or sick leave; or (6) unemployment compensation coverage provided by the State. Company shall indemnify and hold State harmless from, and defend State against, any and all losses, damages, claims, costs, penalties, liabilities, and expenses arising or incurred because of, incident to, or otherwise with respect to any such taxes or fees. Neither Company nor its employees, agents, nor representatives shall be considered employees, agents, or representatives of the State.

16. **INSURANCE SCHEDULE.** Unless expressly waived in writing by the State, Company must carry policies of insurance and pay all taxes and fees incident hereunto. Policies shall meet the terms and conditions as specified within this Contract along with the additional limits and provisions as described in Attachment BB, incorporated hereto by attachment. The State shall have no liability except as specifically provided in the Contract.

The Company shall not commence work before:

- 1) Company has provided the required evidence of insurance to the Commission, and
- 2) The State has approved the insurance policies provided by the Company.

Prior approval of the insurance policies by the State shall be a condition precedent to any payment of consideration under this Contract and the State's approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent this Contract. Any failure of the State to timely approve shall not constitute a waiver of the condition.

Insurance Coverage: The Company shall, at the Company's sole expense, procure, maintain and keep in force for the duration of the Contract insurance conforming to the minimum limits as specified in Attachment BB, incorporated hereto by attachment. Unless specifically stated herein or otherwise agreed to by the State, the required insurance shall be in effect prior to the commencement of work by the Company and shall continue in force as appropriate until:

1. Final acceptance by the State of the completion of this Contract; or
2. Such time as the insurance is no longer required by the State under the terms of this Contract; whichever occurs later.

Any insurance or self-insurance available to the State shall be in excess of, and non-contributing with, any insurance required from Company. Company's insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by the State, Company shall provide the State with renewal or replacement evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as Company has knowledge of any such failure, Company shall immediately notify the State and immediately replace such insurance or bond with an insurer meeting the requirements.

General Requirements:

- a. **Additional Insured:** By endorsement to the Company's general liability insurance policy, the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 shall be named as additional insureds for all liability arising from the Contract.
- b. **Waiver of Subrogation:** Each insurance policy shall provide for a waiver of subrogation against the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 for losses arising from work/materials/equipment performed or provided by or on behalf of the Company.
- c. **Cross-Liability:** All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.
- d. **Deductibles and Self-Insured Retentions:** Insurance maintained by Company shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by the State. Such approval shall not relieve Company from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed fifty thousand dollars (\$50,000.00) per occurrence, unless otherwise approved by the Risk Management Division.
- e. **Policy Cancellation:** Except for ten (10) days notice for non-payment of premium, each insurance policy shall be endorsed to state that without thirty (30) days prior written notice to the State of Nevada, c/o the Commission, the policy shall not be canceled, non-renewed or coverage and /or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mailed to the address shown on page one (1) of this contract:
- f. **Approved Insurer:** Each insurance policy shall be:
 - 1) Issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers acceptable to the State and having agents in Nevada upon whom service of process may be made; and
 - 2) Currently rated by A.M. Best as "A-VII" or better.

Evidence of Insurance:

Prior to the start of any Work, Company must provide the following documents to the contracting State agency:

1) Certificate of Insurance: The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to the State to evidence the insurance policies and coverages required of Company. The certificate must name the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 as the certificate holder. The certificate should be signed by a person authorized insurer to bind coverage on its behalf. The state project/contract number; description and contract effective dates shall be noted on the certificate, and upon renewal of the policies listed Company shall furnish the State with replacement certificates as described within Insurance Coverage, section noted above.

Mail all required insurance documents to the Commission representative identified in paragraph 4 of this Contract.

2) Additional Insured Endorsement: An Additional Insured Endorsement (CG 20 10 11 85 or CG 20 26 11 85), signed by an authorized insurance company representative, must be submitted to the State to evidence the endorsement of the State as an additional insured per General Requirements, subsection a, above.

3) Schedule of Underlying Insurance Policies: If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the Underlyer Schedule from the Umbrella or Excess insurance policy may be required.

4) Review and Approval: Documents specified above must be submitted for review and approval by the State prior to the commencement of work by Company. Neither approval by the State nor failure to disapprove the insurance furnished by Company shall relieve Company of Company's full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of Company or its sub-contractors, employees or agents to the State or others, and shall be in addition to and not in lieu of any other remedy available to the State under this Contract or otherwise. The State reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

17. COMPLIANCE WITH LEGAL OBLIGATIONS. Company shall procure and maintain for the duration of this Contract any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Company to provide the goods or services required by this Contract. Company will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Real property and personal property taxes are the responsibility of Company in accordance with NRS 361.157 and

NRS 361.159. Company agrees to be responsible for payment of any such government obligations not paid by its sub-contractors during performance of this Contract. The State may set-off against consideration due any delinquent government obligation in accordance with NRS 353C.190.

18. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

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

20. ASSIGNMENT/DELEGATION. To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by State, such offending portion of the assignment shall be void, and shall be a breach of this Contract. Company shall neither assign, transfer nor delegate any rights, obligations nor duties under this Contract without the prior written consent of the Commission.

21. STATE OWNERSHIP OF PROPRIETARY INFORMATION. Any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under the Contract), or any other documents or drawings, prepared or in the course of preparation by Company (or its sub-contractors) in performance of its obligations under this Contract shall be the exclusive property of the Commission and all such materials shall be delivered into State possession by Company upon completion, termination, or cancellation of this Contract. Company shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of Company's obligations under this Contract without the prior written consent of the Commission. Notwithstanding the foregoing, the Commission shall have no proprietary interest in any materials licensed for use by the Commission that are subject to patent, trademark or copyright protection.

22. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents received from Company may be open to public inspection and copying. The State has a legal obligation to disclose such information unless a particular record is made confidential by law or a common law balancing of interests. Company may label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 333.333, provided that Company thereby agrees to indemnify and defend the State for honoring such a designation. The failure to so label any document that is released by the State shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

23. CONFIDENTIALITY. Company shall keep confidential all information, in whatever form, produced, prepared, observed or received by Company to the extent that such information is confidential by law or otherwise required by this Contract.

24. LOBBYING. The Parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

- a. Any federal, state, county or local agency, legislature, commission, council or board;
- b. Any federal, state, county or local legislator, commission member, council member, board member, or other elected official; or
- c. Any officer or employee of any federal, state, county or local agency; legislature, commission, council or board.

25. WARRANTIES.

- a. General Warranty. Company warrants that all services, deliverables, and/or work product under this Contract shall be completed in a workmanlike manner consistent with standards in the trade, profession, or industry; shall conform to or exceed the specifications set forth in the incorporated attachments; and shall be fit for ordinary use, of good quality, with no material defects.
- b. System Compliance. Company warrants that any information system application(s) shall not experience abnormally ending and/or invalid and/or incorrect results from the application(s) in the operating and testing of the business of the Commission. This warranty includes, without limitation, century recognition, calculations that accommodate same century and multi-century formulas and data values and date data interface values that reflect the century.

26. PROPER AUTHORITY. The Parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. Any services performed by Company before this Contract is effective or after it ceases to be effective are performed at the sole risk of Company.

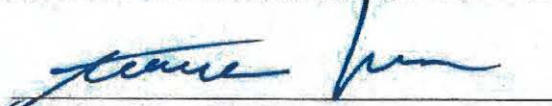
27. GOVERNING LAW; JURISDICTION. This Contract and the rights and obligations of the Parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. The Parties' consent to the exclusive jurisdiction of the First Judicial District Court, Las Vegas, Nevada for enforcement of this Contract.

28. ENTIRE CONTRACT AND MODIFICATION. This Contract and its integrated attachment(s) constitute the entire agreement of the Parties and as such are intended to be the complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an

integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Office of the Attorney General.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

SURVALENT TECHNOLOGY CORPORATION

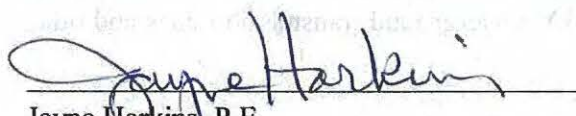


Steve Mueller
President and CEO

April 5, 2012

Date

COLORADO RIVER COMMISSION OF NEVADA

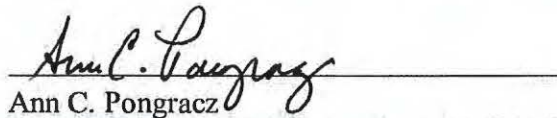


Jayne Harkins P.E.
Executive Director

5/8/12

Date

Approved as to form by:



Ann C. Pongracz
Senior Deputy Attorney General

4/25/12

Date

**CONTRACT NO. SA-12-02
SUBSTATION AUTOMATION SYSTEM
SUPPORT SERVICES**

Between
Colorado River Commission of Nevada
and
Survalent Technology Corporation

ATTACHMENT AA

SCOPE OF WORK

BACKGROUND

The Colorado River Commission of Nevada (“Commission”) owns, operates and maintains a high-voltage transmission and distribution system consisting of two 230/69-kV substations, three 230/14.4-kV substations, four 69/13.8-kV substations, seven 69/4.16-kv substations, thirty-two miles of double-circuit 230-kV transmission lines, five miles of double-circuit 69-kV overhead transmission lines, eleven miles of double-circuit 69-kV underground transmission lines and other related facilities in Clark County, Nevada.

To provide for the remote operation, control, protection and monitoring of the high-voltage transmission and distribution system, the Commission utilizes a substation automation system. The proper performance of this substation automation system is critical to the safe and reliable operation of the Commission’s high-voltage transmission and distribution system. The Commission has determined that the services of a qualified Company are required from time to time to support the Commission as it operates and maintains the substation automation system.

DEFINITIONS

As used in this agreement, unless the context otherwise requires, the words and terms defined in this section, when initially capitalized and used herein, whether in singular or plural, have the meanings ascribed to them in these definitions:

- A. “Agreement” means this Contract No. SA-12-02 for substation automation system support services.
- B. “Commission” means the Colorado River Commission of Nevada.
- C. “Company” means Survalent Technology Corporation
- D. “Contract Manager” means the executive director of the Colorado River Commission of Nevada or her designee.

SERVICES TO BE PERFORMED

The services to be performed by the Company consist of programming, troubleshooting and modifying software associated with the substation automation system as may be required from time to time for the routine operation and maintenance of these items. Types of services that may be required of the Company are as follows:

- A. Updating of Human-Machine Interface (HMI) screens or updates utilizing the installed software on the system development node, and updating those HMI screens to operating nodes;
- B. Updating communication processor settings;
- C. Updating substation automation system database and set points;
- D. Troubleshooting from on-site and remote locations;
- E. Restoration of the substation automation system in the event software or a server is temporarily or permanently rendered inoperable; and/or,
- F. Other related activities associated with the substation automation system as may be requested by the Commission

During the term of the Agreement, the Commission may utilize the services of the Company on all or none of the services listed above.

TASK AUTHORIZATION

The work of the Company must be authorized on an individual task basis. Should the Commission require the Company to perform work pursuant to this agreement, the Commission shall request the Company to prepare and submit for approval a document entitled, "Task Authorization." Each Task Authorization must contain a:

- A. description of the work to be performed by the Company;
- B. list of the deliverables to be provided to the Commission;
- C. schedule for completing the assignment; and
- D. budget for the task.

The Company shall not proceed with any work pursuant to this Agreement unless the Contract Manager has first approved the Task Authorization associated with that work, and issued to the Company a notice to proceed with the work.

COMPENSATION FOR SERVICES

The total cost for the performance of all work described in this Agreement must not exceed Two Hundred Twenty Five Thousand Dollars and no cents (\$225,000.00) over the term of the contract.

For the performance of the services described in this Agreement, the Commission agrees to pay the Company as follows:

- A. For services performed by the Company's personnel, the hourly rates indicated in an approved Task Authorization. Those rates must include Company's direct salaries; overtime payroll costs; sick leave pay; vacation pay; holiday pay; and overhead, including taxes, profit and all other costs of doing business. The Company shall not charge the Commission for reproduction, printing, long distance telephone calls, testing apparatus, computer and computer-aided design and drafting (CADD) services. Those costs must be included in the hourly rates charged for the Company's employees.
- B. For services rendered by others as subcontractors to the Company, the Company shall charge only for the actual cost to the Company.
- C. Notwithstanding the cost to the Company, the Commission shall not pay, in an amount greater than the amount for such expenses allowed for employees of the State of Nevada, for travel, per diem or subsistence, including airfare, food, lodging, automobile rental, commercial services and incidental expenses, of the Company, the Company's subcontractors or any other professional companies retained by Company to provide services under this Contract.
- D. Notwithstanding the cost to the Company, the Commission shall not pay the Company in an amount greater than the amount approved by the Contract Manager in any individual Task Authorization.

The Company shall deliver itemized monthly statements to the Commission for work performed under any approved Task Authorization during the preceding month. The Commission shall pay the Company for the services provided under this Agreement during the preceding month within thirty days after the receipt of a correct statement. The Commission shall not be obligated to pay interest to the Company if payment is not made within thirty days.

If the Commission questions some element of an invoice, that fact must be made known, in writing, to the Company as soon as possible. The Company will help resolve the question and transmit a revised invoice as necessary. Amounts not questioned by the Commission must be promptly paid.

ATTACHMENT BB**Insurance Schedule****INDEMNIFICATION CLAUSE:**

Contractor shall indemnify, hold harmless and, not excluding the State's right to participate, defend the State, its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against all liabilities, claims, actions, damages, losses, and expenses including without limitation reasonable attorneys' fees and costs, (hereinafter referred to collectively as "claims") for bodily injury or personal injury including death, or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the State.

INSURANCE REQUIREMENTS:

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, his agents, representatives, employees or subcontractors and Contractor is free to purchase additional insurance as may be determined necessary.

- A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a "following form" basis.

1. **Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage and broad form contractual liability

coverage.

- General Aggregate
\$2,000,000
- Products – Completed Operations Aggregate
\$1,000,000
- Personal and Advertising Injury
\$1,000,000
- Each Occurrence
\$1,000,000

- a. The policy shall be endorsed to include the following additional insured language:
"The State of Nevada shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor".

2. Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL)	\$1,000,000
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- a. The policy shall be endorsed to include the following additional insured language:
"The State of Nevada shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor".

3. Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$100,000
Disease – Each Employee	\$100,000
Disease – Policy Limit	\$500,000

- a. Policy shall contain a waiver of subrogation against the State of Nevada.
- b. This requirement shall not apply when a contractor or subcontractor is exempt under N.R.S., AND when such contractor or subcontractor executes the appropriate sole proprietor waiver form.

4. Professional Liability (Errors and Omissions Liability)

The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this contract.

Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000

- a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be

exercised for a period of two (2) years beginning at the time work under this Contract is completed.

- B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:
1. On insurance policies where the State of Nevada, Colorado River Commission is named as an additional insured, the State of Nevada shall be an additional insured to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Contract.
 2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
- C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the State, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to:

**Jayne Harkins, P.E., Executive Director
Colorado River Commission of Nevada
555 East Washington Ave., Suite 3100
Las Vegas, Nevada 89101**

- D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Nevada and with an "A.M. Best" rating of not less than A-VII. The State in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- E. **VERIFICATION OF COVERAGE:** Contractor shall furnish the State with certificates of insurance (ACORD form or equivalent approved by the State) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the State before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be sent directly to (**Jayne Harkins, Executive Director, Colorado River Commission of Nevada, 555 E. Washington Avenue, Suite 3100, Las Vegas, NV 89101**). The State project/contract number and project description shall be noted on the certificate of insurance. The State reserves the

right to require complete, certified copies of all insurance policies required by this Contract at any time.

- F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as additional insureds under its policies or Contractor shall furnish to the State separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

- G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the Risk Management Division or the Attorney General's Office, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.