

**MEMORANDUM**

**TO:** Board of Trustees

**THROUGH:** Bobby Magee, District General Manager

**FROM:** Kate Nelson, Director of Public Works

**SUBJECT:** Review, Discuss, and Approve Agreement for the SR28 Mill and Overlay Project for the Emergency Water Main Repair at Natural Grocers; FY 2024/25 Public Works; Utilities: Water; Operating #20002224-7505 in the Amount of \$45,225.30. (Requesting Staff Member: Director of Public Works Kate Nelson)

**RELATED FY 2023 STRATEGIC PLAN**

**LONG RANGE PRINCIPLE #5 – ASSETS AND INFRASTRUCTURE**

**BUDGET INITIATIVE(S):** The District will practice perpetual asset renewal, replacement and improvement to provide safe and superior long term utility services and recreation venues, facilities, and services.

**RELATED DISTRICT POLICIES, PRACTICES, RESOLUTIONS OR ORDINANCES**

Board Policy 21.2.0 Purchasing Policy for Public Works Contracts.

**DATE:** August 28, 2024

**I. RECOMMENDATION**

That the Board of Trustees make a motion to:

1. Award the Construction Contract to F.W. Carson Co. in the amount of \$45,225.30 and,
2. Direct the General Manager to sign and execute the Agreement.

**II. BACKGROUND**

The existing 6-inch fire hydrant (FH) lateral that crosses State Route 28 (SR28) at Christmas Tree Village and Natural Grocers was an original steel pipe and was observed during adjacent water main repairs to be in a failed state due to

age and corrosion. The FH lateral was replaced by Gerhardt & Berry Construction in August 2024. Following the hydrant lateral replacement, conditions in the NDOT Emergency Encroachment Permit require reinstatement of the specific open-graded asphalt (OGA) surface course to match the new surface completed by NDOT in 2023.

OGA is a specialized material with strict, ambient temperature restrictions for placement. For this reason, the reinstatement was unable to be completed at the time of FH lateral repair completed under separate contract by Gerhardt & Berry because the FH lateral was replaced during night work when the 60-degree temperature requirement was unlikely to be met.

### **III. BID RESULTS**

The District solicited cost proposals from four companies and received three responsive proposals. The following table summarizes the cost proposals received, with F.W. Carson Co. submitting the lowest proposal.

<b>Company</b>	<b>Cost</b>
F.W. Carson	\$42,225.30
Granite Construction	\$86,587.00
West Coast Paving	\$51,400.00
Sierra Nevada Construction	Declined to submit

### **IV. FINANCIAL IMPACT AND BUDGET**

The District's approved water utility operating budget GL #20002224-7505 for FY 2024/25 includes funding for street cut permits and repair costs in the amount of \$150,000.

### **V. ALTERNATIVES**

There are no alternatives presented. The open-grade mill and overlay is required per the NDOT Emergency Temporary Occupancy Permit obtained for the emergency water main repair on SR28 at Natural Grocers.

### **VI. COMMENTS**

The construction agreement between the District and F.W. Carson Co. was reviewed and approved by District Legal Counsel. Attachment 1

### **VII. BUSINESS IMPACT/BENEFIT**

This item is not a "rule" within the meaning of Nevada Revised Statutes, Chapter 237, and does not require a Business Impact Statement.

**VIII. ATTACHMENTS**

1. SFA - FW Carson - SR28 Mill & Overlay\_bbk1\_20240821

**IX. DECISION POINTS NEEDED FROM THE BOARD OF TRUSTEES**

**SHORT FORM CONSTRUCTION CONTRACT  
BETWEEN INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT  
and  
F.W. CARSON COMPANY  
for  
CONSTRUCTION SERVICES**

**1. PARTIES AND DATE.**

This Contract is made and entered as of August 29, 2024 by and between the INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT, a Nevada general improvement district (“District”) and F.W. CARSON COMPANY (“Contractor”). District and Contractor are sometimes individually referred to as “Party” and collectively as “Parties” in this Contract.

**2. RECITALS.**

2.1 District. District is a general improvement district organized under the laws of the State of Nevada, with power to contract for services necessary to achieve its purpose.

2.2 Contractor. Contractor desires to perform and assume responsibility for the provision of certain construction services required by the District on the terms and conditions set forth in this Contract. Contractor represents that it is duly licensed and experienced in providing construction services relating to the mill and overlay of NDOT-approved bituminous open-graded surfacing, that it and its employees or subcontractors have all necessary licenses and permits to perform the services in the State of Nevada, and that it is familiar with the plans of District.

2.3 Project. District desires to engage Contractor to render such services for the State Route 28 Open-Graded Mill & Overlay (“Project”) as set forth in this Contract.

2.4 Project Documents. Contractor has obtained, and delivers concurrently herewith, all insurance documentation, as required by the Contract. By reference herein, Contractor agrees to review and comply with the District’s Ordinances and *Standard Specifications for Road and Bridge Construction* (the “Silver Book”) and the *Manual on Uniform Traffic Control Devices* (MUTCD).

**3. TERMS**

3.1 Incorporation of Documents. This Contract includes and hereby incorporates in full by reference the following documents, including all exhibits, drawings, specifications and documents therein, and attachments and addenda thereto:

- Schematic Site Plan (Exhibit “A”)
- Contractor’s Pricing from Proposal, dated August 02, 2024 (Exhibit “B”)

3.2 Contractor’s Basic Obligation; Scope of Work. Contractor promises and agrees, at its own cost and expense, to furnish to the District all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately complete the Project, including all structures and facilities necessary for the Project or described in the Contract (hereinafter sometimes referred to as the “Work”), for a Total Contract Price as specified in Section 3.7 of and pursuant to this Contract. All Work shall be subject to, and performed in accordance with the above referenced documents, as well as the exhibits attached hereto and

incorporated herein by reference. The plans for the Work are further depicted in Exhibit "A" attached hereto and incorporated herein by this reference.

The Work is generally described as follows:

Mill existing road surface to a depth of one inch (1") from existing grade and shall include the full road width curb to curb, laterally, and 75-feet, longitudinally; placement of 1-inch thick bituminous open-graded surfacing for the full milled area to match existing finish grade; bituminous open graded surfacing shall be a current, NDOT-approved open-graded mix design per Section 401 and 403 of the NDOT Silver Book; temporary lowering and final set of three existing valve boxes including placement of new concrete collars; final reinstatement of center-line and fog line striping per Section 632 of the NDOT Silver Book; location of the work is on State Route 28 in Incline Village, Washoe County, Nevada.

3.2.1 Change in Scope of Work. Any change in the scope of the Work, method of performance, nature of materials or price thereof, or any other matter materially affecting the performance or nature of the Work shall not be paid for or accepted unless such change, addition or deletion is approved in writing by a valid change order executed by the District. Should Contractor request a change order due to unforeseen circumstances affecting the performance of the Work, such request shall be made within five (5) business days of the date such circumstances are discovered or shall waive its right to request a change order due to such circumstances. If the Parties cannot agree on any change in price required by such change in the Work, the District may direct the Contractor to proceed with the performance of the change on a time and materials basis.

### 3.3 Period of Performance.

3.3.1 Contract Time. Contractor shall perform all Work under this Contract starting after September 03, 2024 and be complete by October 04, 2024 ("Contract Time"). Contractor shall perform its Work in strict accordance with any completion schedule, construction schedule or project milestones developed by the District. Contractor agrees that if such Work is not completed within the aforementioned Contract Time and/or pursuant to any such completion schedule, construction schedule or project milestones developed pursuant to provisions of the Contract, it is understood, acknowledged and agreed that the District will suffer damage.

3.3.2 Force Majeure. Neither District nor Contractor shall be considered in default of this Contract for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Contract, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; pandemics or epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Contract. Contractor's exclusive remedy in the event of delay covered under this section shall be a non-compensable extension of the Contract Time.

3.3.3 Liquidated Damages. Contractor and District recognize that time is of the essence, and that District will suffer financial and other losses if the Work is not completed in the Contract Time, as may be modified by mutual agreement of the parties. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the

actual loss suffered by District if the Work is not completed on time. Accordingly, instead of requiring any such proof, District and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay to District two-hundred and fifty dollars (\$250.00) for each working day beyond the Contract Time that the Work is not completed, without an extension of time approved by the District in writing. If District recovers liquidated damages for a delay in completion by Contractor, such liquidated damages are District's sole and exclusive remedy for such delay, and District is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Contract.

3.3.4 Hours of Work. Working hours, including equipment "warm up," shall occur between 7 a.m. and 7 p.m. Monday through Friday. Only emergency work may occur on Saturdays, with prior approval of District.

3.4 Standard of Performance; Performance of Employees.

3.4.1 Contractor shall perform all Work under this Contract in a skillful and workmanlike manner, and consistent with the Contract Documents and the standards generally recognized as being employed by professionals in the same discipline in the State of Nevada. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Work. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Work assigned to them. Finally, Contractor represents that it, its employees, and its subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Work, including any required business license, and that such licenses and approvals shall be maintained throughout the term of this Contract. As provided for in the indemnification provisions of this Contract, Contractor shall perform, at its own cost and expense and without reimbursement from the District, any work necessary to correct errors or omissions which are caused by Contractor's failure to comply with the standard of care provided for herein. Any employee who is determined by the District to be uncooperative, incompetent, a threat to the safety of persons or the Work, or any employee who fails or refuses to perform the Work in a manner acceptable to the District, shall be promptly removed from the Project by Contractor and shall not be re-employed on the Work.

3.4.2 Contractor's warranty and guarantee hereunder excludes defects or damage caused by abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or normal wear and tear under normal usage.

3.4.3 Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the work in accordance with the Contract Documents:

- a. Observations by District's representative;
- b. Recommendation by District's representative or payment by District of any progress or final payment;
- c. The issuance of a certificate of substantial completion by District's representative or any payment related thereto by District;

- d. Use or occupancy of the Project or any part thereof by District;
- e. Any review and approval of a shop drawing or sample submittal or the issuance of a notice of acceptability by District's representative;
- f. Any inspection, test, or approval by others; or
- g. Any correction of defective work by District.

### 3.5 Correction Period.

3.5.1 If, within one year after the date of substantial completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by District or permitted by laws and regulations is found to be defective, Contractor shall promptly, without cost to District and in accordance with District's written instructions:

- a. Repair such defective land or areas; or
- b. Correct such defective work; or
- c. If the defective work has been rejected by District, remove it from the Project and replace it with work that is not defective, and
- d. Satisfactorily correct or repair or remove and replace any damage to other work, to the work of others or other land or areas resulting therefrom.

3.5.2 If Contractor does not promptly comply with the terms of District's written instructions, or in an emergency where delay would cause serious risk of loss or damage, District may have the defective work corrected or repaired or may have the rejected work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.

3.5.3 In special circumstances where a particular item of equipment is placed in continuous service before substantial completion of all the Project, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

3.5.4 Where defective work (and damage to other work resulting therefrom) has been corrected or removed and replaced under this Section 3.5, the correction period hereunder with respect to such work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

3.5.5 Contractor's obligations under this Section 3.5 are in addition to any other obligation or warranty. The provisions of this Section 3.5 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitation or repose.

3.6 District's Basic Obligation. District agrees to engage and does hereby engage Contractor as an independent contractor to furnish all materials and to perform all Work according to the terms and conditions herein contained for the sum set forth above. Except as otherwise provided in the Contract, the District shall pay to Contractor, as full consideration for the satisfactory performance by Contractor of the services and obligations required by this Contract, the below-referenced compensation in accordance with compensation provisions set forth in the Contract.

3.7 Compensation and Payment.

3.7.1 Amount of Compensation.

a. Not used

b. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work as shown on the Bid Form. The total estimated Contract Price is **forty-five thousand two-hundred twenty-five dollars and thirty cents (\$45,225.30)**. The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. Estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

c. For all Work, at the prices stated in Contractor's Bid, attached hereto as Exhibit "B."

3.7.2 Payment of Compensation. On or before the fifth (5th) day of each month, Contractor shall submit to the District an itemized invoice indicating the amount of Work completed since commencement of the Work or since the last progress payment. The Contractor shall certify that the Work for which payment is requested has been done and that the materials listed are stored where indicated. Contractor may be required to furnish a detailed schedule of values upon request of the District and in such detail and form as the District shall request, showing the quantities, unit prices, overhead, profit, and all other expenses involved in order to provide a basis for determining the amount of progress payments. Invoices shall be sent to [invoices@ivgid.org](mailto:invoices@ivgid.org), with a copy to [hwk@ivgid.org](mailto:hwk@ivgid.org).

3.8 Safety. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. Contractor shall comply with the requirements of the specifications relating to safety measures applicable in particular operations or kinds of work. In carrying out its Work, Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the Work and the conditions under which the Work is to be performed. Safety precautions as applicable shall include, but shall not be limited to, adequate life protection and lifesaving equipment; adequate illumination for underground and night operations; instructions in accident prevention for all employees, such as machinery guards, safe walkways, scaffolds, ladders, bridges, gang planks, confined space procedures, trenching and shoring, fall protection and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and adequate facilities for the proper inspection and maintenance of all safety measures.

3.9 Laws and Regulations. Contractor shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Contract or the Work, including all labor requirements, and shall give all



notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with Work. If Contractor observes that the drawings or specifications are at variance with any law, rule or regulation, it shall promptly notify the District in writing. Any necessary changes shall be made by written change order. If Contractor performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the District, Contractor shall be solely responsible for all costs arising therefrom. District is a public entity of the State of Nevada subject to certain provisions of the NRS. It is stipulated and agreed that all provisions of the law applicable to the public contracts of a quasi-municipal corporation are a part of this Contract to the same extent as though set forth herein and will be complied with. Contractor shall defend, indemnify and hold District, its officials, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Contract, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.9.1 By executing this Contract, Contractor acknowledges that it is aware of District's Ordinance 1, the Solid Waste Ordinance, and specifically Section 4.5. thereof, Dumpster Use, Location and Enclosure. Any construction dumpster on the job site that is not properly enclosed shall be a fully locking roll-top, and is to remain locked and secured at all times.

3.10 Permits and Licenses. Contractor shall be responsible for securing District permits and licenses necessary to perform the Work described herein, including, but not limited to, any required business license.

3.11 Completion of Work. When Contractor determines that it has completed the Work required herein, Contractor shall so notify District in writing and shall furnish all labor and material releases required by this Contract. District shall thereupon inspect the Work. If the Work is not acceptable to the District, the District shall indicate to Contractor in writing the specific portions or items of Work which are unsatisfactory or incomplete. Once Contractor determines that it has completed the incomplete or unsatisfactory Work, Contractor may request a re-inspection by the District. Once the Work is acceptable to District, District shall pay to Contractor the Total Contract Price remaining to be paid, less any amount which District may be authorized or directed by law to retain.

3.12 Dispute Resolution.

3.12.1 Contractor and District hereby agree to engage in alternate dispute resolution ("ADR") pursuant to NRS 338.150, under the prevailing Nevada law in the Second Judicial District Court of the State of Nevada in and for the County of Washoe. Any dispute arising under this contract will be sent to mediation. Any mediation shall occur in Incline Village, Washoe County, Nevada. The mediation shall be conducted through the American Arbitration Association (AAA) and be governed by the AAA's Mediation Procedures.

3.12.2 The mediator is authorized to conduct separate or ex parte meetings and other communications with the parties and/or their representatives, before, during and after any scheduled mediation conference. Such communications may be conducted via telephone, in writing, via email, online, in person or otherwise.

3.12.3 District and Contractor are encouraged to exchange all documents pertinent to the relief requested. The mediator may request the exchange of memorandum on all pertinent issues. The mediator does not have the authority to impose a settlement on the parties but such mediator will attempt to help District and Contractor reach a satisfactory resolution of

their dispute. Subject to the discretion of the mediator, the mediator may make oral or written recommendations for settlement to a party privately, or if the parties agree, to all parties jointly.

3.12.4 District and Contractor shall participate in the mediation process in good faith. The mediation process shall be concluded within sixty (60) days of a mediator being assigned.

3.12.5 In the event that a complete settlement of all or some issues in dispute is not achieved within the scheduled mediation session(s), the mediator may continue to communicate with the parties, for a period of time, in an ongoing effort to facilitate a complete settlement. Any settlement agreed upon during mediation shall become binding if within thirty (30) days after the date that any settlement agreement is signed, either the District or Contractor fails to object or withdraw from the agreement. If mediation shall be unsuccessful, either District or Contractor may then initiate judicial proceedings by filing suit. District and Contractor will share the cost of mediation equally unless agreed otherwise.

3.13 Loss and Damage. Except as may otherwise be limited by law, Contractor shall be responsible for all loss and damage which may arise out of the nature of the Work agreed to herein, or from the action of the elements, or from any unforeseen difficulties which may arise or be encountered in the prosecution of the Work until the same is fully completed and accepted by District.

3.14 Indemnification.

3.14.1 Scope of Indemnity. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the District, its officials, employees, agents and authorized volunteers free and harmless from any and all claims, demands, causes of action, suits, actions, proceedings, costs, expenses, liability, judgments, awards, decrees, settlements, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Contractor's services, the Project or this Contract, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. Notwithstanding the foregoing, Contractor's indemnity obligation shall not apply to liability for damages for death or bodily injury to persons, injury to property, or any other loss, damage or expense arising from the sole or active negligence or willful misconduct of the District or the District's agents, servants, or independent contractors who are directly responsible to the District, or for defects in design furnished by those persons.

3.14.2 Additional Indemnity Obligations. Contractor shall defend, with counsel of District's choosing and at Contractor's own cost, expense and risk, any and all Claims covered by this section that may be brought or instituted against District or its officials, employees, agents and authorized volunteers. In addition, Contractor shall pay and satisfy any judgment, award or decree that may be rendered against District or its officials, employees, agents and authorized volunteers as part of any such claim, suit, action or other proceeding. Contractor shall also reimburse District for the cost of any settlement paid by District or its officials, employees, agents and authorized volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for District's attorney's fees and costs, including expert witness fees. Contractor shall reimburse District and its officials, employees, agents and authorized volunteers, for any and all legal expenses and costs incurred by each of them in

connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the District, its officials, employees, agents and authorized volunteers.

### 3.15 Insurance.

3.15.1 Time for Compliance. Contractor shall not commence Work under this Contract until it has provided evidence satisfactory to the District that it has secured all insurance required under this section. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the District that the subcontractor has secured all insurance required under this section. Failure to provide and maintain all required insurance shall be grounds for the District to terminate this Contract for cause.

3.15.2 Minimum Requirements. Contractor shall, at its expense, procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work hereunder by Contractor, its agents, representatives, employees or subcontractors. Contractor shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Contract. Such insurance shall meet at least the following minimum levels of coverage:

a. Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 00 01) OR Insurance Services Office Owners and Contractors Protective Liability Coverage Form (CG 00 09 11 88) (coverage for operations of designated contractor); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 00 01, code 1 (any auto); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of Nevada and Employer's Liability Insurance. Policies shall not contain exclusions contrary to this Contract.

b. Minimum Limits of Insurance. Contractor shall maintain limits no less than: (1) *General Liability*: \$2,000,000 per occurrence and \$4,000,000 aggregate for bodily injury, personal injury and property damage; (2) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability*: Workers' compensation limits as required by the State of Nevada. Employer's Liability limits of \$1,000,000 each accident, policy limit bodily injury or disease, and each employee bodily injury or disease. Defense costs shall be available in addition to the limits. Notwithstanding the minimum limits specified herein, any available coverage shall be provided to the parties required to be named as additional insureds pursuant to this Contract.

3.15.3 Insurance Endorsements. The insurance policies shall contain the following provisions, or Contractor shall provide endorsements (amendments) on forms supplied or approved by the District to add the following provisions to the insurance policies:

a. General Liability. The commercial general liability policy shall be endorsed to provide the following: (1) the District, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds; (2) the insurance coverage shall be primary insurance as respects the District, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the

District, its directors, officials, officers, employees, agents and volunteers shall be excess of the Contractor's insurance and shall not be called upon to contribute with it in any way; and (3) the insurance coverage shall contain or be endorsed to provide waiver of subrogation in favor of the District, its directors, officials, officers, employees, agents and volunteers or shall specifically allow Contractor to waive its right of recovery prior to a loss. Contractor hereby waives its own right of recovery against District, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

b. Automobile Liability. The automobile liability policy shall be endorsed to provide the following: (1) the District, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Contractor or for which the Contractor is responsible; (2) the insurance coverage shall be primary insurance as respects the District, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officials, officers, employees, agents and volunteers shall be excess of the Contractor's insurance and shall not be called upon to contribute with it in any way; and (3) the insurance coverage shall contain or be endorsed to provide waiver of subrogation in favor of the District, its directors, officials, officers, employees, agents and volunteers or shall specifically allow Contractor to waive its right of recovery prior to a loss. Contractor hereby waives its own right of recovery against District, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

c. Workers' Compensation and Employer's Liability Coverage. The insurer shall agree to waive all rights of subrogation against the District, its officials, employees, agents and authorized volunteers for losses paid under the terms of the insurance policy which arise from work performed by Contractor.

d. All Coverages. Each insurance policy required by this Contract shall be endorsed to state that: (1) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District; and (2) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the District, its officials, employees, agents and authorized volunteers.

3.15.4 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the District, its officials, employees, agents and authorized volunteers.

3.15.5 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the District. Contractor shall guarantee that, at the option of the District, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its officials, employees, agents and authorized volunteers; or (2) the Contractor shall procure a bond or other financial guarantee acceptable to the District guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.15.6 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A-VII, licensed to do business in Nevada, and

satisfactory to the District. Exception may be made for the State Compensation Insurance Fund when not specifically rated.

3.15.7 Verification of Coverage. Contractor shall furnish District with original certificates of insurance and endorsements effecting coverage required by this Contract on forms satisfactory to the District. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms supplied or approved by the District. All certificates and endorsements must be received and approved by the District before work commences. The District reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.15.8 Subcontractors. All subcontractors shall meet the requirements of this Section before commencing Work. Contractor shall furnish separate certificates and endorsements for each subcontractor. Subcontractor policies of General Liability insurance shall name the District, its officials, employees, agents and authorized volunteers as additional insureds using form ISO 20 38 04 13 or endorsements providing the exact same coverage. All coverages for subcontractors shall be subject to all of the requirements stated herein except as otherwise agreed to by the District in writing.

3.15.9 Reporting of Claims. Contractor shall report to the District, in addition to Contractor's insurer, any and all insurance claims submitted by Contractor in connection with the Work under this Contract.

3.15.10 Compliance with Coverage Requirements. If at any time during the life of the Contract, any policy of insurance required under this Contract does not comply with these specifications or is canceled and not replaced, District has the right but not the duty to obtain the insurance it deems necessary and any premium paid by District will be promptly reimbursed by Contractor or District will withhold amounts sufficient to pay premium from Contractor payments. In the alternative, District may terminate this Contract for cause.

### 3.16 Bond Requirements.

3.16.1 Payment Bond. If required by law or otherwise specifically requested by District, Contractor shall execute and provide to District concurrently with this Contract a Payment Bond in an amount required by the District and in a form provided or approved by the District. If such bond is required, no payment will be made to Contractor until the bond has been received and approved by the District.

3.16.2 Performance Bond. If specifically requested by District, Contractor shall execute and provide to District concurrently with this Contract a Performance Bond in an amount required by the District and in a form provided or approved by the District. If such bond is required, no payment will be made to Contractor until the bond has been received and approved by the District.

3.16.3 Bond Provisions. Should, in District's sole opinion, any bond become insufficient or any surety be found to be unsatisfactory, Contractor shall renew or replace the effected bond within (ten) 10 days of receiving notice from District. In the event the surety or Contractor intends to reduce or cancel any required bond, at least thirty (30) days prior written notice shall be given to the District, and Contractor shall post acceptable replacement bonds at least ten (10) days prior to expiration of the original bonds. No further payments shall be deemed due or will be made under this Contract until any replacement bonds required by this Section are accepted by the District. To the extent, if any, that the Total Contract Price is increased in

accordance with the Contract, Contractor shall, upon request of the District, cause the amount of the bond to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the District. If Contractor fails to furnish any required bond, the District may terminate the Contract for cause.

### 3.17 Employee/Labor Certifications.

3.17.1 Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

3.17.2 Verification of Employment Eligibility. By executing this Contract, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subcontractors and sub-subcontractors to comply with the same.

### 3.18 General Provisions.

3.18.1 District's Representative. The District hereby Kate Nelson, or his or her designee, to act as its representative for the performance of this Contract ("District's Representative"). District's Representative shall have the power to act on behalf of the District for all purposes under this Contract. Contractor shall not accept direction or orders from any person other than the District's Representative or his or her designee.

3.18.2 Contractor's Representative. Before starting the Work, Contractor shall submit in writing the name, qualifications and experience of its proposed representative who shall be subject to the review and approval of the District ("Contractor's Representative"). Following approval by the District, Contractor's Representative shall have full authority to represent and act on behalf of Contractor for all purposes under this Contract. Contractor's Representative shall supervise and direct the Work, using his best skill and attention, and shall be responsible for all construction means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this Contract. Contractor's Representative shall devote full time to the Project and either he or his designee, who shall be acceptable to the District, shall be present at the Work site at all times that any Work is in progress and at any time that any employee or subcontractor of Contractor is present at the Work site. Arrangements for responsible supervision, acceptable to the District, shall be made for emergency Work which may be required. Should Contractor desire to change its Contractor's Representative, Contractor shall provide the information specified above and obtain the District's written approval.

3.18.3 Termination. This Contract may be terminated by District at any time, either with our without cause, by giving Contractor three (3) days' advance written notice. In the event of termination by District for any reason other than the fault of Contractor, District shall pay Contractor for all Work performed up to that time as provided herein. In the event of breach of the Contract by Contractor, District may terminate the Contract immediately without notice, may reduce payment to Contractor in the amount necessary to offset District's resulting damages, and may pursue any other available recourse against Contractor. Contractor may not terminate this Contract except for cause. In the event this Contract is terminated in whole or in part as provided,

District may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated. Further, if this Contract is terminated as provided, District may require Contractor to provide all finished or unfinished documents, data, diagrams, drawings, materials or other matter prepared or built by Contractor in connection with its performance of this Contract. District shall not be liable for any costs other than the charges or portions thereof which are specified herein. Contractor shall not be entitled to payment for unperformed Work including, without limitation, any overhead and profit on the portion of the Work that is terminated and shall not be entitled to damages or compensation of any kind or nature for termination of Work.

3.18.4 Contract Interpretation. Should any question arise regarding the meaning or import of any of the provisions of this Contract or written or oral instructions from District, the matter shall be referred to District's Representative, whose decision shall be binding upon Contractor.

3.18.5 Notices. All notices hereunder and communications regarding interpretation of the terms of the Contract or changes thereto shall be provided by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

**CONTRACTOR:** F.W. Carson Company  
1064 Tahoe Blvd  
Incline Village, NV 89451

**DISTRICT:** Incline Village General Improvement District  
893 Southwood Blvd.  
Incline Village, Nevada 89451  
Attn: Hudson Klein, P. E.

Any notice so given shall be considered received by the other Party three (3) days after deposit in the U.S. Mail as stated above and addressed to the Party at the above address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.18.6 Assignment Forbidden. Contractor shall not, either voluntarily or by action of law, assign or transfer this Contract or any obligation, right, title or interest assumed by Contractor herein without the prior written consent of District. If Contractor attempts an assignment or transfer of this Contract or any obligation, right, title or interest herein, District may, at its option, terminate and revoke the Contract and shall thereupon be relieved from any and all obligations to Contractor or its assignee or transferee.

3.18.7 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.18.8 Controlling Law. This Contract shall be interpreted in accordance with the laws of the State of Nevada.

3.18.9 Counterparts. This Contract may be executed in counterparts, each of which shall constitute an original.

3.18.10 Successors. The Parties do for themselves, their heirs, executors, administrators, successors, and assigns agree to the full performance of all of the provisions contained in this Contract.

3.18.11 Conflict of Interest. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Contract. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, District shall have the right to rescind this Contract without liability. For the term of this Contract, no official, officer or employee of District, during the term of his or her service with District, shall have any direct interest in this Contract, or obtain any present or anticipated material benefit arising therefrom.

3.18.12 Certification of License. Contractor certifies that as of the date of execution of this Contract, Contractor has a current contractor's license of the classification indicated below under Contractor's signature.

3.18.13 Authority to Enter Contract. Each Party warrants that the individuals who have signed this Contract have the legal power, right and authority to make this Contract and bind each respective Party.

3.18.14 Entire Contract; Modification. This Contract contains the entire agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Contract may only be modified by a writing signed by both Parties.

3.18.15 Non-Waiver. None of the provisions of this Contract shall be considered waived by either party, unless such waiver is specifically specified in writing.

3.18.16 District's Right to Employ Other Contractors. District reserves right to employ other contractors in connection with this Project or other projects.

**[SIGNATURES ON NEXT PAGE]**



**SIGNATURE PAGE FOR CONSTRUCTION CONTRACT  
BETWEEN F.W. CARSON COMPANY AND INCLINE VILLAGE GENERAL  
IMPROVEMENT DISTRICT**

IN WITNESS WHEREOF, the Parties have entered into this Contract as of the day and date of the year first set forth above.

**OWNER:  
INCLINE VILLAGE G. I. D.  
Agreed to:**

**CONTRACTOR:  
F.W. CARSON COMPANY  
Agreed to:**

By: \_\_\_\_\_  
Bobby Magee  
General Manager

By: \_\_\_\_\_  
*Signature of Authorized Agent*

\_\_\_\_\_  
*Print or Type Name and Title*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Date*

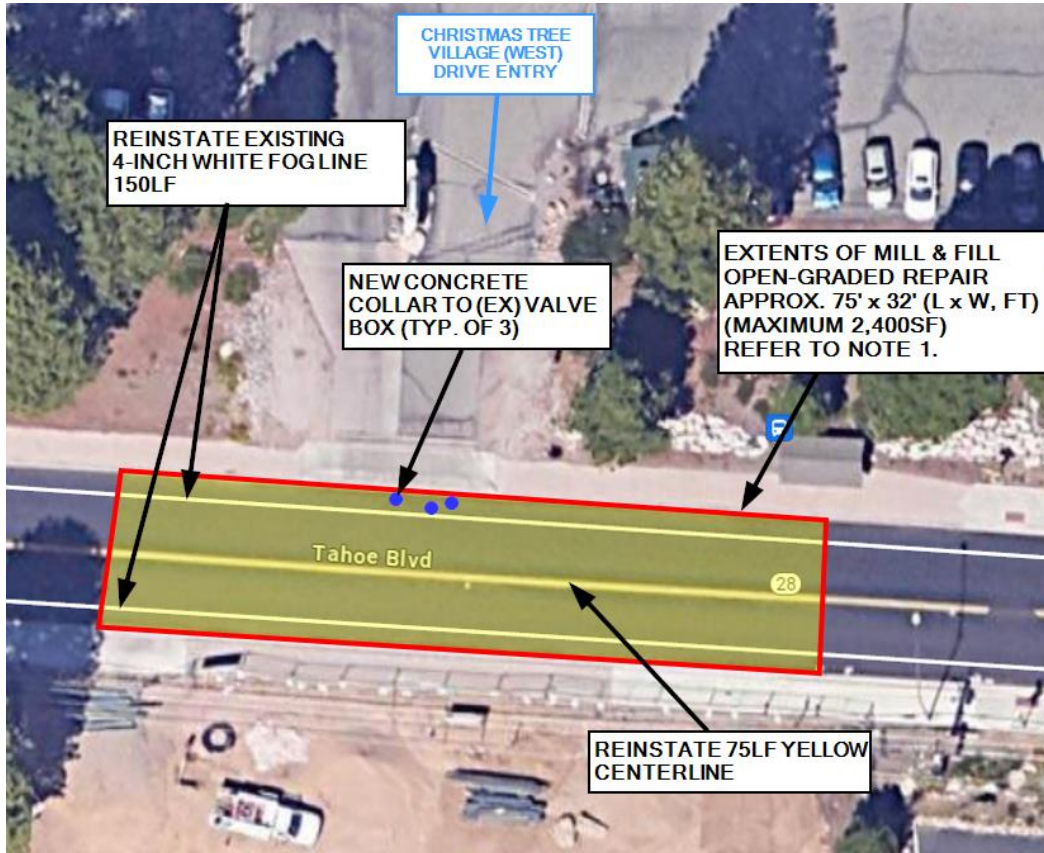
**Reviewed as to Form:**

\_\_\_\_\_  
Sergio Rudin  
District General Counsel

If Contractor is a corporation, attach evidence of authority to sign.

\_\_\_\_\_  
*Date*

**EXHIBIT "A"**  
**SCHEMATIC SITE PLAN**



**NOTES:**

- 1) Contractor shall submit an NDOT approved mix design for the proposed open-graded material prior to start of works and provide delivery docket prior to placement.
- 2) IVGID will provide NDOT permits, as required; Contractor is required to comply with permit conditions and requirements of MUTCD for traffic control.

**EXHIBIT "B"**

**CONTRACTOR'S PRICING FROM PROPOSAL DATED: AUGUST 02, 2024**

Incline Village, NV  
Washoe County  
Asphalt Paving Only  
Work to be Completed: 2024 Construction Season(s)

Base Bid Price:      Line Item Totals      \$ 45,225.30

Addenda:

Included Scopes of Work:

Item:	Description	
1	<u>Mobilization/ Demobilization</u> ; Transportation of personnel, equipment and materials to and from the site.	\$ 4,432.82
2	<u>Traffic Control</u> : Line item consists of traffic control for a flip flop single lane closure on SR28.	\$ 7,248.89
3	<u>Lower &amp; Raise G5s</u> : Lower existing G5 valve cans prior to milling and paving, then raise up and pour concrete collars after asphalt paving 3 each.	\$ 4,240.92
4	<u>Open Grade Grind &amp; Overlay at 1"</u> : Grind existing asphalt to a depth of 1", clean and prep surface, Apply SS1-H tack oil to surface and pave NDOT Open Grade HMA at 1" thickness. 2,400 SF.	\$ 23,280.00
5	<u>Striping</u> : Install 75 lf of divider line per existing.	\$ 6,022.67