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FOR INSTRUCTIONS TO BIDDERS**

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Article 1 - Defined Terms

1.01 Terms used in these Instructions to Bidders will have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below which are applicable to both the singular and plural thereof:

- A. *Bidder* - The individual or entity who submits a Bid directly to OWNER.
- B. *Issuing Office* - The office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.
- C. *Successful Bidder* - The lowest responsible Bidder submitting a responsive Bid to whom OWNER (on the basis of OWNER's evaluation as hereinafter provided) makes an award.

Article 2 - Copies of Bidding Documents

2.01 Complete sets of the Bidding Documents in the number and for the deposit sum, if any, stated in the Advertisement or Invitation to Bid may be obtained from the Issuing Office website for free at <http://www.swimcenter.com> under the Construction Doc's heading entitled Activity Pool Remodel, although the documents will be available for all to view and download, only qualified contractors will be allowed to become a subscriber.

2.02 Complete sets of Bidding Documents must be used in preparing Bids; neither OWNER nor ARCHITECT assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

2.03 OWNER and ARCHITECT in making copies of Bidding Documents available on the above terms do so only for the purpose of obtaining Bids for the Work and do not confer a license or grant for any other use.

Article 3 - Qualifications of Bidders

3.01 To demonstrate Bidder's qualifications to perform the Work, each Bidder must submit a completed Statement of Bidder's Experience and Financial Qualifications on the Bid Form.

Article 4 - Examination of Bidding Documents, Other Related Data, and Site

4.01 *Subsurface and Physical Conditions*

- A. The Supplementary Conditions identify:
 - 1. Those reports of explorations and tests of subsurface conditions at or contiguous to the Site that ARCHITECT has used in preparing the Bidding Documents.
 - 2. Those drawings of physical conditions in or relating to existing surface and subsurface structures at or contiguous to the Site (except Underground Facilities) that ARCHITECT has used in preparing the Bidding Documents.
- B. Copies of reports and drawings referenced in paragraph 4.01.A will be made available by OWNER to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which Bidder is entitled to rely

as provided in paragraph 4.02 of the General Conditions has been identified and established in paragraph 4.02 of the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from and "technical data" or any other data, interpretations, opinions or information contained in such reports or shown or indicated in such drawings.

4.02 *Underground Facilities*

A. Information and data shown or indicated in the Bidding Documents with respect to existing Underground Facilities at or contiguous to the site is based upon information and data furnished to OWNER and ARCHITECT by owners of such Underground Facilities including OWNER, or others. OWNER and ARCHITECT do not assume responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise in the Supplementary Conditions.

4.03 *Hazardous Environmental Condition*

A. The Supplementary Conditions identify those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that ARCHITECT has used in preparing the Bidding Documents.

B. Copies of reports and drawings referenced in paragraph 4.03.A will be made available by OWNER to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which Bidder is entitled to rely as provided in paragraph 4.06 of the General Conditions has been identified and established in paragraph 4.06 of the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from and "technical data" or any other data, interpretations, opinions or information contained in such reports or shown or indicated in such drawings.

4.04 Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to subsurface conditions, other physical conditions and Underground Facilities, and possible changes in the Bidding Documents due to differing or unanticipated conditions appear in Paragraphs 4.02, 4.03, and 4.04 of the General Conditions. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to a Hazardous Environmental Conditions at the Site, if any, and possible changes in the Contract Documents due to any Hazardous Environmental Condition uncovered or revealed at the Site was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work appear in paragraph 4.06 of the General Conditions.

4.05 On request, OWNER will provide each Bidder access to the site to conduct such examinations, investigations, explorations, tests and studies as Bidder deems necessary for submission of a Bid. Bidder shall fill all holes and clean up and restore the site to its former conditions upon completion of such explorations, investigations, tests and studies.

4.06 Reference is made to Article 7 of the Supplementary Conditions for the identification of the general nature of work that is to be performed at the site by OWNER or others (such as utilities and other prime contractors) that relates to the work for which a Bid is to be submitted. On request, OWNER will provide to each Bidder for examination access to or copies of Contract Documents (other than portions thereof related to price) for such other work.

4.07. It is the responsibility of each Bidder before submitting a Bid to:

A. Examine and carefully study the Bidding Documents, including any Addenda and other related data identified in the Bidding Documents;

B. Visit the Site to become familiar with and satisfy Bidder as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work;

C. Become familiar with and satisfy Bidder as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance of the Work;

D. Carefully study all reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions, and carefully study all reports and drawings of a Hazardous Environmental Condition, if any, at the Site which have been identified in the supplementary Conditions as provided in paragraph 4.06 of the General Conditions;

E. Obtain and carefully study (or assume responsibility for doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto;

F. Agree at the time of submitting its Bid that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price bid and within the times and in accordance with the other terms and conditions of the Bidding Documents;

G. Become aware of the general nature of the work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Bidding Documents;

H. Correlate the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents;

I. Promptly give ARCHITECT written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by ARCHITECT is acceptable to Bidder; and

J. Determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work.

4.08 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Bidding Documents and applying the specific means, methods, techniques, sequences or procedures of construction that may be shown or indicated or expressly required by the Bidding Documents, that Bidder has given ARCHITECT written notice of all conflicts, errors, ambiguities and discrepancies that Bidder has discovered in the Contract Documents and the written resolutions thereof by ARCHITECT is acceptable to Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

Article 5 - Pre-bid Conference

5.01 A mandatory pre-bid conference will be held on Wednesday, November 19th at the Swim Center, 1600 SR 88 Minden. Representatives of OWNER and ARCHITECT will be present to discuss the Project. Bidders are required to attend and participate in the conference; attendance is mandatory. ARCHITECT will transmit to all prospective Bidders of record such Addenda as

ARCHITECT considers necessary in response to questions arising at the conference. Oral statements may not be relied upon and will not be binding or legally effective.

Article 6 - Site and Other Areas

6.01 The Site is identified in the Bidding Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by OWNER unless otherwise provided in the Bidding Documents.

Article 7 - Interpretations and Addenda

7.01 All questions about the meaning or intent of the Bidding Documents are to be directed to ARCHITECT on the Request for Information Form. Send all such requests to the Project ARCHITECT via email using this form, (no other method will be accepted). Interpretations or clarifications considered necessary by ARCHITECT in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by ARCHITECT as having received the Bidding Documents. Questions received less than three days prior to the date for opening of Bids may not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

7.02 Addenda may also be issued to clarify, correct, or change the Bidding Documents as deemed advisable by OWNER or ARCHITECT.

Article 8 - Bid Security

8.01 A Bid must be accompanied by Bid security made payable to OWNER in an amount of five percent of Bidder's maximum Bid price and in the form of a Certified or Bank Check or a Bid Bond (on form attached) issued by a surety meeting the requirements of Paragraphs 5.01 and 5.02 of the General Conditions.

8.02 The Bid security of the Successful Bidder will be retained until such Bidder has executed the Contract Documents, furnished the required contract security and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within 15 days after the Notice of Award, OWNER may annul the Notice of Award and the Bid security of that Bidder will be forfeited. The Bid security of other Bidders whom OWNER believes to have a reasonable chance of receiving the award may be retained by OWNER until the earlier of seven days after the Effective Date of the Agreement or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be returned.

8.03 Bid security of other Bidders whom OWNER believes do not have a reasonable chance of receiving the award will be returned within seven days after the Bid opening.

Article 9 - Contract Times

9.01 The number of days within which, or the dates by which, the Work is to be (a) substantially completed and (b) also completed and ready for final payment are set forth in the Agreement.

Article 10 - Liquidated Damages

10.01 Provisions for liquidated damages, if any, are set forth in the Agreement.

Article 11 - Substitute and "Or-Equal" Items

11.01 The Contract, if awarded, will be on the basis of materials and equipment described in the Drawings or specified in the Specifications without consideration of possible substitute or "or-equal" items. Whenever it is specified or described in the Bidding Documents that a substitute or "or-equal" item of material or equipment may be furnished or used by CONTRACTOR if acceptable to ARCHITECT, application for such acceptance will not be considered by ARCHITECT until after the Effective Date of the Agreement. The procedure for submission of any such application by CONTRACTOR and consideration by ARCHITECT is set forth in the General Conditions and may be supplemented in the General Requirements.

Article 12 - Subcontractors, Suppliers and Others

12.01 Each Bidder must submit a completed List of Subcontractors on the Form furnished with the completed Bid Form. The apparent Successful Bidder, and any other Bidder so requested, shall within seven days after the Bid opening submit to OWNER supplemental information in the form of an experience statement with the pertinent information regarding similar projects and other evidence of qualification of each Subcontractor, Supplier, person or organization if requested by OWNER or ARCHITECT. IF OWNER or ARCHITECT, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier, individual, or entity, OWNER may, before the Notice of Award is given request apparent Successful Bidder to submit an acceptable substitute, in which case apparent Successful Bidder shall submit an acceptable substitute, Bidder's Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution and OWNER may consider such price adjustment in evaluating Bids and making the contract award.

12.02 If apparent Successful Bidder declines to make any such substitution, OWNER may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers, individuals, or entities. Declining to make requested substitutions will not constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor, Supplier, individual, or entity so listed and against which OWNER or ARCHITECT makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to OWNER and ARCHITECT subject to revocation of such acceptance after the Effective Date of the Agreement as provided in Paragraph 6.06 of the General Conditions.

12.03 CONTRACTOR shall not be required to employ any Subcontractor, Supplier, individual, or entity against whom CONTRACTOR has reasonable objection.

Article 13 - Preparation of Bid

13.01 The Bid Form is included with the Bidding Documents. Additional copies may be obtained from ARCHITECT (or the Issuing Office).

13.02 All blanks on the Bid Form and Bid Schedule must be completed by printing in ink or by typewriter and the Bid signed. A bid price shall be indicated for each Bid item listed therein.

13.03 A Bid by a corporation shall be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the

corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown below the signature.

13.04 A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership must be shown below the signature.

13.05 A bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm must be shown below the signature.

13.06 A Bid by an individual shall show the Bidder's name and official address.

13.07 A Bid by a joint venture shall be executed by each joint venturer in the manner indicated on the Bid Form. The official address of the joint venturer must be shown below the signature.

13.08 All names must be typed or printed in black ink below the signatures.

13.09 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers of which must be filled in on the Bid Form.

13.10 The address and telephone number for communications regarding the Bid must be shown.

13.11 The Bid shall contain evidence of Bidder's authority and qualification to do business in the state where the Project is located. Bidder's state contractor license number for the state of the Project, if any, must also be shown on the Bid Form.

Article 14 - Basis of Bid; Evaluation of Bids

14.01 *Lump Sum Basis*

Article 15 - Submittal of Bid

15.01 Each prospective Bidder is furnished one copy of the Bidding Documents with one separate unbound copy each of the Bid Form, and if required, the Bid Bond. The unbound copy of the Bid Form is to be completed and submitted with the Bid security and the following data:

- A. List of Subcontractors
- B. Construction Contractor's Qualification Statement for ARCHITECTing Construction
- C. Non-Collusion Affidavit

15.02 A bid shall be submitted no later than the date and time prescribed and at the place indicated in the advertisement or invitation to Bid and shall be enclosed in an opaque sealed envelope plainly marked with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted), the name and address of Bidder, and shall be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate envelope plainly marked on the outside with the notation "BID ENCLOSED." A mailed Bid shall be addressed to Carson Valley Swim Center, 1600 SR88, Minden, NV 89423.

Article 16 - Modification and Withdrawal of Bid

16.01 A Bid may be modified or withdrawn by an appropriate document duly executed in the manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids.

16.02 If, within twenty-four hours after Bids are opened any Bidder files a duly signed written notice with OWNER and promptly thereafter demonstrates to the reasonable satisfaction of OWNER that there was a material and substantial mistake in the preparation of its Bid, OWNER may, in its sole discretion, choose to not accept the Bid and return the same to Bidder. Thereafter, that Bidder will be disqualified from further bidding on the Work.

Article 17 - Opening of Bids

17.01 Bids will be opened at the time and place indicated in the advertisement or invitation to Bid and, unless obviously non-responsive, read aloud publicly. An abstract of the amounts of the base Bids and major alternates, if any, will be made available to Bidders after the opening of Bids.

Article 18 - Bids to Remain Subject to Acceptance

18.01 All Bids will remain subject to acceptance for the period of time stated in the Bid Form, but OWNER may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

Article 19 - Award of Contract

19.01 OWNER reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced or conditional Bids. OWNER further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to be non-responsive. OWNER may also reject the Bid of any Bidder if OWNER believes that it would not be in the best interest of the Project to make an award to that Bidder. OWNER also reserves the right to waive all informalities not involving price, time or changes in the Work and to negotiate contract terms with the Successful Bidder.

19.02 More than one Bid for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for the Work may be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.

19.03 In evaluating Bids, OWNER will consider whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.

19.04 In evaluating Bidders, OWNER will consider the qualifications of Bidders and may consider the qualifications and experience of Subcontractors, Suppliers, and other individuals or entities proposed for those portions of the Work for which the Subcontractors, Suppliers, and other individuals or entities must be submitted as provided in the Supplementary Conditions..

19.05 OWNER may conduct such investigations as OWNER deems necessary to establish the responsibility, qualifications and financial ability of Bidders, proposed Subcontractors, Suppliers individuals, or entities to perform the Work in accordance with the Contract Documents.

19.06 If the Contract is to be awarded, OWNER will award the Contract to lowest Bidder whose evaluation by OWNER indicates to OWNER that the award will be in the best interests of the Project. Pursuant to NRS 338.145, the OWNER will not award the contract to any Bidder who, at the time of opening of Bids, is not licensed under the provisions of Chapter 624 of the Nevada Revised Statutes or if the contract would exceed the limit of its license. The Bidders attention is directed to NRS 624.230 which declares that, "any bid submitted by a person who is neither licensed nor exempted from licensure as provided in this chapter at the time the bid is submitted is void."

19.07 NRS 338.147 provides for a 5 percent bidder preference to bidders who qualify for the preference. Refer to Supplementary Condition 6.09.I for the requirements which must be met by a bidder under this statute.

19.08 The project requires permits prior to construction that the Owner intends to obtain. In the event the permits are not granted the contract will not be awarded. At a minimum, these permits include:

- a. Building Permit

Article 20 - Contract Security

20.01 Article 5 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth OWNER's requirements as to performance and payment Bonds and insurance. When the Successful Bidder delivers the executed Agreement to OWNER, it must be accompanied by such Bonds.

Article 21 - Signing of Agreement

21.01 When OWNER gives a Notice of Award to the Successful Bidder, it shall be accompanied by the required number of unsigned counterparts of the Agreement with the other Contract Documents which are identified in the Agreement attached thereto. Within 15 days thereafter, Successful Bidder shall sign and deliver the required number of counterparts of the Agreement and attached documents to OWNER. Within 10 days thereafter, OWNER shall deliver one fully signed counterpart to Successful Bidder with a complete set of drawings with appropriate identification.

Article 22 - Retainage

22.01 Provisions concerning retainage and Contractors' rights to deposit securities in lieu of retainage are set forth in the Agreement.

Article 23 - State Industrial Insurance System

23.01 Contractor agrees to provide proof of insurance prior to the performance of any work under this contract, and to maintain required workers compensation coverage throughout the entire term of the contract. Refer to General Conditions 5.03, 5.04, and 6.09.

Article 24 – Appeal by Bidders

24.01 Any bidder may appeal a pending bid award prior to award by Owner. The appellant must:

- A. Submit a written protest to the Owner's contract administrator within five (5) workdays after the bid opening.
- B. Describe, in the written protest, the issues to be addresses on appeal.
- C. Post, with the written protest, a bond with a surety meeting the requirements of Supplementary Condition SC-5.02 authorized to do business in this state or submit other security in a form approved by Owner who will hold the bond or security until a determination is made on the appeal.
- D. Post the bond or other security in the amount of 25% of the total dollar value of the appellant's bid, up to a maximum bond or other security amount of \$250,000.00.
- E. Not seek any type of judicial intervention until Owner has rendered its final decision on the protest.

24.02 Owner will stay award actions until after the Owner's contract administrator has responded in writing to the protest. If the appellant is not satisfied with the response, the appellant may then protest to the Douglas County Board of Commissioners, who will render a final decision for the Owner. No bid protests will be heard by the Board of Commissioners unless bidder has followed the appeal process.

24.03 If an appeal is granted, the full amount of the posted bond or security will be returned to the appellant. If the appeal is denied or not upheld, a claim may be made against the bond for expenses suffered by the Owner because of the unsuccessful appeal.

24.04 Owner is not liable for any costs, expenses, attorney's fees, loss of income, or other damages sustained by the appellant in a bid process.

Article 25 – Laws and Regulations

25.01 Contractor shall acknowledge by submittal of this Bid that the Laws and Regulations regarding Douglas County Prevailing Wages shall be met by this Contract.

25.02 The following NRS Statute will be enforced for this project.

- A. NRS 338.125 Fair employment practices: Contents of contracts concerning public works; break of contract.
 - 1. It is unlawful for any contractor in connection with the performance of work under a contract with a public body, when payment of the contract price, or any part of such payment, is to be made from public money, to refuse to employ or to discharge from employment any person because of his or her race, color, creed, national origin, sex, sexual orientation, gender identity or expression, or age, or to discriminate against a person with respect to hire, tenure, advancement, compensation or other terms, conditions or privileges of employment because of his or her race, creed, color, national origin, sex, sexual orientation, gender identity or expression, or age.
 - 2. Contracts between contractors and public bodies must contain the following contractual provisions:
In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, sexual orientation, gender identity or expression, or age, including without limitation, with regard to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including, without limitation, apprenticeship. The

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

3. Any violation of such provision by a contractor constitutes a material breach of contract.
 4. As used in this section:
 - a) "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.
 - b) "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.
- (Added to NRS by 1959, 137; A 1973, 981; 1999, 1942; 2003, 2417; 2011, 501)