

CONSTRUCTION AGREEMENT
BETWEEN
WASHOE COUNTY
AND
OVERLAND CONTRACTING INC.
FOR THE
SLIDE MOUNTAIN TOWER MODIFICATION PROJECT

CONSTRUCTION AGREEMENT

THIS CONSTRUCTION AGREEMENT (this "Agreement") is effective as of September 15, 2017 (the "Effective Date") and sets forth the mutual understanding, intent and agreement of:

Washoe County, a political subdivision of the State of Nevada, on behalf of its Technology Services Department ("Owner"),

and

Overland Contracting Inc., a corporation organized under the laws of Delaware ("Contractor").

Owner and Contractor are each a "Party" and collectively the "Parties" under this Agreement.

NOW THEREFORE, each Party agrees as follows:

1. SCOPE OF WORK AND COMPENSATION.

The project consists of Tower Modifications (the "Project") located at Slide Mountain. Contractor shall furnish materials, equipment and labor for the Project as set forth in Exhibit A, Scope of Work (the "Work"). As compensation for the Work, Owner shall pay Contractor as set forth in Exhibit B, Payment Schedule, subject to increases or decreases in compensation in accordance with this Agreement. Contractor may be supplied with certain information or data by Owner or others, and Contractor shall be entitled to rely on such information. Contractor shall not be liable for the accuracy of such information or data, or responsible for its verification.

2. PROJECT COMPLETION.

When Contractor believes the Work is substantially complete so that the Work is ready to be used by Owner ("Substantial Completion"), Contractor shall so notify Owner in writing. Contractor's notice shall include a list of the minor items of Work which are not complete and which do not affect Owner's use of the Work ("Punch List"). Within seven (7) calendar days of Owner's receipt of such notice, Owner and Contractor shall complete a joint inspection of the Work to review the Punch List and determine whether Substantial Completion has been achieved. If the Work has not achieved Substantial Completion, Owner shall notify Contractor in writing listing the deficiencies in achieving Substantial Completion within three (3) calendar days of such joint inspection. Contractor shall perform the necessary additional work to achieve Substantial Completion. Following completion of any additional work, Contractor shall deliver to Owner a new notice and the provisions of this Article 2 shall apply with respect to such new notice in the same manner as they applied to the original notice. When Substantial Completion is achieved, Owner shall within three (3) calendar days of such joint inspection deliver to Contractor a final agreed Punch List together with a certificate of Substantial Completion which shall be effective from the date of Contractor's notification that is ultimately accepted.

Following Substantial Completion, Owner shall allow Contractor reasonable access to the site to complete the Punch List as soon as practicable. When Contractor believes the Work is fully complete ("Final Completion"), Contractor shall so notify Owner in writing. Within seven (7) calendar days of Owner's receipt of such notice, Owner and Contractor shall complete a joint inspection of the Work to determine whether Final Completion has been achieved. If the Work has not achieved Final Completion, Owner shall notify Contractor in writing listing the deficiencies in achieving Final Completion within three (3) calendar days of such joint inspection. Contractor shall perform the necessary additional work to achieve Final Completion. Following completion of any additional work, Contractor shall deliver to Owner a new notice and the

provisions of this Article 2 shall apply with respect to such new notice in the same manner as they applied to the original notice. When Final Completion is achieved, Owner shall within three (3) calendar days of such joint inspection deliver to Contractor a certificate of Final Completion which shall be effective from the date of Contractor's notification that is ultimately accepted.

3. WARRANTY.

Contractor warrants that the Work shall be performed in a skillful and workmanlike manner, free from defects in materials and workmanship and in conformance with this Agreement. For a period of one (1) year following Final Completion of the Work, Contractor will repair or replace, at Contractor's option and at no additional cost to Owner, any defective or nonconforming Work. If the Work involves the purchase of machinery or equipment from others, then Contractor shall, for the benefit of Owner, use reasonable efforts to obtain from all vendors and suppliers from whom Contractor procures such machinery or equipment for the Work, warranties with respect to such machinery or equipment. Such warranties shall be made available to Owner to the full extent of the terms thereof. Contractor's liability with respect to such machinery or equipment shall be limited to using reasonable efforts to obtain warranties from such vendors or suppliers and rendering all reasonable assistance (excluding litigation and dispute resolution) to Owner on a reimbursable cost basis for the purpose of enforcing such warranties. All warranties are conditioned on operation and maintenance of the Project in accordance with the operating and maintenance manual and good industry practice. Contractor's obligations do not extend to any repairs or replacements required as a result of normal corrosion, erosion, noise level, or wear and tear from the operation and use of the Work. EXCEPT AS PROVIDED IN THIS ARTICLE 3, THERE ARE NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO THE WORK, AND CONTRACTOR DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE OBLIGATIONS CONTAINED IN THIS ARTICLE 3 ARE CONTRACTOR'S SOLE OBLIGATIONS AND OWNER'S EXCLUSIVE REMEDY IN RESPECT OF THE QUALITY OF THE WORK.

4. HOLD HARMLESS, INDEMNIFICATION AND INSURANCE.

Washoe County has established specific indemnification and insurance requirements for contracts/agreements with contractors/consultants to help ensure that reasonable insurance coverage is maintained. Indemnification and hold harmless clauses are intended to ensure that contractors/consultants are aware of and accept the responsibility for losses or liabilities related to their activities. Exhibit C, Pages 1-4, is attached and included by reference. All conditions and requirements identified in this Exhibit shall be completed prior to the commencement of any work under this contract/agreement.

5. SUSPENSION AND TERMINATION.

(a) If Contractor commits a material breach of this Agreement and fails to commence to remedy such breach within ten (10) calendar days after receipt of written demand by Owner; and thereafter, Contractor fails to proceed diligently to cure such breach, Owner may terminate the Agreement and recover damages as allowed by the Agreement's governing law, subject to any waiver of loss or damage set forth in this Agreement.

(b) If Owner commits a material breach of this Agreement and fails to commence to remedy such breach within ten (10) calendar days after receipt of written demand from Contractor; and thereafter, Owner fails to proceed diligently to cure such breach, Contractor may terminate the Agreement. If Owner's breach is a failure to pay money, then Contractor may immediately suspend performance of the Work; or, within ten (10) days after Owner's receipt of written demand from Contractor, Contractor may terminate the Agreement. If Contractor terminates this Agreement, Contractor may recover damages as allowed by the Agreement's governing law, subject to any waiver of loss or damage set forth in this Agreement. If Contractor suspends the Work, Contractor shall be entitled to any stand-by and

demobilization/remobilization costs incurred by Contractor resulting from the suspension of Work, including any stand-by charges or cancellation charges by subcontractors, all of which shall be reimbursed to Contractor monthly as such costs are incurred and to an equitable change order prior to a re-start of the Work.

(c) Owner may suspend the Work or terminate the Agreement for Owner's convenience. In such case, Contractor shall be paid for Work performed, including any stand-by charges, demobilization/remobilization costs incurred, or cancellation charges by Contractor and its subcontractors. If Owner suspends the Work, Contractor shall be entitled to an equitable change order prior to a re-start of the Work.

(d) If the Work is suspended by Owner for ninety (90) days in the aggregate, Contractor may terminate the Agreement and Contractor shall be paid as if such termination were a termination for Owner's convenience.

6. SAFETY.

The Contractor shall be responsible for: (i) conducting the Work in a safe manner; (ii) the safety of Contractor's employees, agents and subcontractors; and (iii) complying with all applicable safety laws, rules and regulations. The means and methods employed for performing the Work shall be Contractor's responsibility, subject to suggestions or approvals by Owner as may be necessary to safeguard the character or results of the Work. Contractor shall coordinate its safety programs with the Owner's safety program. However, compliance by Contractor with Owner's safety program shall not relieve the Contractor of its obligations under OSHA and other applicable laws, ordinances, rules regulations, or orders.

7. LIMITATIONS.

(a) Neither Party shall be liable to the other Party for: loss of anticipated profit or revenue; loss of profits or revenue; loss of use; loss of opportunity; loss of goodwill; cost of substitute facilities, goods or services; cost of capital; cost of purchased or replacement power; governmental and regulatory penalties or sanctions; or, for any consequential, exemplary, incidental, indirect, punitive or special loss or damage; and claims of customers for any such damages. Contractor's total aggregate liability under this Agreement shall not exceed the compensation received by Contractor under this Agreement.

(b) To the fullest extent allowed by law, all releases from and limitations of liability set forth in this Agreement shall apply notwithstanding a breach of contract, tort (including negligence), strict liability or other theory of liability and shall survive any discharge or termination of this Agreement. All such releases and limitations shall equally apply to the applicable Party's contractors, consultants, partners and joint venturers, and subcontractors of any tier, and each of their shareholders, directors, officers, employees and agents. The warranties, obligations, liabilities and remedies of the Parties provided in this Agreement are sole and exclusive and in lieu of any others available at law or in equity.

(c) Except for an obligation to make payments, a Party shall not be in default to the extent any nonperformance is caused by a circumstance beyond such Party's reasonable control, including the discovery of a hazardous material or condition. Contractor shall be entitled to an equitable adjustment in its Work schedule and compensation for any adverse impact of an event beyond Contractor's reasonable control.

8. HAZARDOUS MATERIALS AND DIFFERING CONDITIONS.

If Contractor encounters hazardous materials on the Project site, Owner shall arrange for remediation of all such materials or conditions which interfere with Contractor's ability to perform the Work and Contractor shall be entitled to an equitable adjustment in compensation and completion date, as appropriate. Contractor

shall be responsible for remediation of such material brought onto the Project site by Contractor or its subcontractors.

Other than hazardous materials addressed in the preceding paragraph, in the event and to the extent that actual conditions encountered by Contractor during performance of the Work differ materially from those represented in the Agreement that affect the Work, increase Contractor's costs, or adversely affect Contractor's ability to meet the completion date, Contractor shall be entitled to a change to the Work and an equitable adjustment in compensation and completion date, as appropriate. Contractor shall not be obligated to proceed with the Work with respect to such conditions prior to the issuance of an approved Change Order.

9. COMPLIANCE WITH LAWS.

Contractor shall comply with laws and regulations applicable to Contractor's operations in the performance of the Work. Changes to laws and regulations after the Effective Date that impact the Project schedule or the cost of the Work shall entitle Contractor to an equitable change order.

10. INDEPENDENT CONTRACTOR.

Contractor shall be an independent contractor and not an agent or employee of Owner. Contractor may subcontract portions of the Work; and, in such event, Contractor shall be responsible for the performance of such subcontractors as if Contractor had itself performed the subcontracted Work.

11. RIGHT TO AUDIT.

Owner may audit and inspect Contractor's records and accounts covering reimbursable costs for the Work for a period of six months following Final Completion. The purpose of any such audit shall be only for verification of such costs. Contractor shall not be required to keep records of or provide access to those of its costs expressed as fixed rates, a lump sum, or as a percentage of other costs.

12. GOVERNING LAW AND DISPUTE RESOLUTION.

(a) This Agreement shall be governed by and interpreted in accordance with the laws of the State of Nevada excluding provisions thereof which would apply the laws of another jurisdiction; provided however, it is not the intent of the Parties to render any provision of this Agreement void or unenforceable by the selection of the governing law. Any provision of this Agreement that would be void or unenforceable under the foregoing governing law, except for reasons of the expiration of any statutory or other time period, shall instead be governed by the law of a jurisdiction that would maintain the intent of the Parties that each provision of this Agreement shall be enforceable according to its terms.

(b) Disputes arising out of this Agreement shall first be referred to senior executives of each Party for amicable discussion. Disputes that cannot be resolved amicably within thirty (30) days of such referral shall be finally resolved by binding arbitration administered by the American Arbitration Association under its Construction Industry Arbitration Rules. During the pendency of any dispute, the Parties will continue to execute their obligations under the Agreement.

IN WITNESS WHEREOF, the Parties have signed this Construction Agreement for the Slide Mountain Tower Modification Project as of the Effective Date.

WASHOE COUNTY

OVERLAND CONTRACTING INC.

By _____
(Signature)

By _____
(Signature)

(Print Name)

Jeffrey Stamm
(Print Name)

Title _____

Title Vice President - Treasurer

EXHIBIT A

SCOPE OF WORK

The Scope of Work for the Slide Mountain Tower Modification project is based upon the e-mail (dated 9/15/2017 1:48PM CST) which includes the following documents that will be used as the Scope of Work to complete the Slide Mountain Tower Modification.

- Structural Analysis Report dated July 11, 2017
- Magnetic Particle Inspection Report dated August 16, 2017
- Leg Scoping Report dated August 18, 2017
- Tower Modification Report dated September 15, 2017

The Washoe County Technology Services Department will assist OCI in accessing the site for construction activities.

END OF EXHIBIT A

EXHIBIT B

PAYMENT SCHEDULE

Contractor agrees to perform the Work for the fixed sum of *One hundred thirty eight thousand seven hundred sixty dollars*, Dollars (\$138,760.00), payable at the times and in the amounts set forth in this Exhibit B.

Payment shall be due upon Owner's receipt of invoice from Contractor and Owner agrees to pay a late payment charge of 1.5% per month, or, if less, the maximum rate allowed by the law commencing on the thirty-first day after the invoice date until payment is received in full by Contractor.

END OF EXHIBIT B

EXHIBIT C

WASHOE COUNTY INDEMNIFICATION AND INSURANCE SPECIFICATIONS FOR SLIDE MOUNTAIN TOWER MODIFICATION

INTRODUCTION

OWNER has established specific indemnification, insurance, and safety requirements for public works construction contracts to help assure that reasonable insurance coverage is purchased and safe working conditions are maintained. Indemnification and hold harmless clauses are intended to assure that CONTRACTOR accepts and is able to pay for the loss or liability related to its activities.

INDEMNIFICATION AGREEMENT

CONTRACTOR agrees to hold harmless, indemnify, and defend OWNER, its officers, agents, employees, and volunteers from any loss or liability, financial or otherwise resulting from any third-party claim, demand, suit, action, or cause of action based on bodily injury including death or property damage, caused by any action, the omission, or failure to act on the part of CONTRACTOR, its employees, agents, representatives, or Subcontractors to the extent arising out of the negligent performance of work under this Agreement by CONTRACTOR, or by others under the direction or supervision of CONTRACTOR.

CONTRACTOR must either defend OWNER or, upon determination that the work performed by CONTRACTOR was negligent as set forth in above, pay OWNER'S costs related to the investigation and defense of any claim, demand, action, or cause of action.

If OWNER'S personnel are involved in defending such actions, CONTRACTOR shall reimburse OWNER for the reasonable time spent by such personnel at the actual and direct cost incurred by OWNER for such services.

GENERAL REQUIREMENTS

CONTRACTOR shall purchase Industrial Insurance, General Liability, Automobile Liability, Property Insurance and Professional Insurance as described below. The cost of such insurance shall be included in the CONTRACTOR'S bid.

INDUSTRIAL INSURANCE

It is understood and agreed that there shall be no Industrial Insurance coverage provided for CONTRACTOR or any Subcontractor by OWNER. CONTRACTOR agrees, as a precondition to the performance of any work under this Agreement and as a precondition to any obligation of the OWNER to make any payment under this Agreement to provide OWNER with a certificate issued by an insurer in accordance with NRS 616B.627 and with certificates of an insurer showing coverage pursuant to NRS 617.210 for CONTRACTOR and all subcontractors.

If CONTRACTOR or Subcontractor is unlicensed and is a sole proprietor, coverage for the sole proprietor must be purchased and evidence of coverage must appear on the Certificate of Insurance. Such requirement may be waived for a sole proprietor who does not use the services of any employees, subcontractors, or independent contractors and completes an Affirmation of Compliance pursuant to NRS 616B.627(2).

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

Should CONTRACTOR be self-funded for Industrial Insurance, CONTRACTOR shall so notify OWNER in writing prior to the signing of this Agreement. OWNER reserves the right to approve said retentions, and may request additional documentation, financial or otherwise, for review prior to the signing of this Agreement.

MINIMUM LIMITS OF INSURANCE

CONTRACTOR shall maintain limits no less than:

1. General Liability: \$1,000,000 combined single limit per occurrence and in the aggregate for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, the general aggregate limit shall be increased to equal twice the required occurrence limit or revised to apply separately to each project or location.
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage covering "Any Auto". No aggregate limits may apply.
3. Professional Errors and Omissions as required by Risk Manager: \$ N/A.

DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions provided to Washoe OWNER must be commercially reasonable. Any changes to the deductibles or self-insured retentions made during the term of this Agreement or during the term of any policy, must be commercially reasonable.

OTHER INSURANCE PROVISIONS

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages
 - a. OWNER, its officers, agents, employees, and volunteers are to be included as insureds as respects damages and defense arising from: activities performed by or on behalf of CONTRACTOR, including the insured's general supervision of CONTRACTOR; products and completed operations of CONTRACTOR; premises owned, occupied, or used by CONTRACTOR; or automobiles owned, leased, hired, or borrowed by the CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to the additional insureds nor shall the rights of the additional insureds be affected by the insured's duties after an accident or loss.
 - b. CONTRACTOR'S insurance coverage shall be primary insurance as respects OWNER, its officers, agents, employees, and volunteers. Any insurance or self-insurance maintained by OWNER, its officers, employees, or volunteers shall be excess of CONTRACTOR'S insurance and shall not contribute with it in any way.
 - c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to OWNER, its officers, agents, employees, or volunteers.
 - d. CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. Property Coverages

CONTRACTOR shall provide builders risk insurance on an "All Risk" basis on a policy form reasonably satisfactory to OWNER. The limit of coverage will be the amount necessary to cover the replacement value

of the Work. Losses paid under any property insurance policy or policies shall be paid directly to OWNER by the insurer(s).

3. All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, or non-renewed by either CONTRACTOR or by the insurer, except after thirty (30) days' prior written notice has been given to OWNER except for nonpayment of premium.

ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a Best's rating of no less than A-: VII. OWNER, with the approval of the Risk Manager, may accept coverage with carriers having lower Best's ratings upon review of financial information concerning CONTRACTOR and insurance carrier. OWNER reserves the right to require that CONTRACTOR'S insurer be a licensed and admitted insurer in the State of Nevada, or on the Insurance Commissioner's approved but not admitted list.

VERIFICATION OF COVERAGE

CONTRACTOR shall furnish OWNER with certificates of insurance and with original endorsements affecting coverage required by this exhibit. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. **All certificates and endorsements are to be addressed to the specific OWNER contracting department and be received and approved by OWNER before work commences.** OWNER reserves the right to require complete certified copies of all required insurance policies at any time in the event a claim is filed.

SUBCONTRACTORS

CONTRACTOR shall include all Subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each Subcontractor. All coverages for Subcontractors shall be subject to all of the requirements stated herein.

MISCELLANEOUS CONDITIONS

1. CONTRACTOR shall be responsible for and remedy all damage or loss to any property that is part of the Work, including property of OWNER, caused by CONTRACTOR, any Subcontractor, or anyone employed, directed, or supervised by CONTRACTOR until Substantial Completion of the Project.
2. CONTRACTOR may be held responsible for payment of damages to persons or property that is part of the Work resulting from its operations or the operations of any Subcontractors under it until Substantial Completion of the Project.
3. In addition to any other remedies OWNER may have under this Agreement if CONTRACTOR fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, OWNER may, at its sole option, after reasonable notice and opportunity to cure:
 - a. Order CONTRACTOR to stop work under this Agreement and/or withhold any payments which become due CONTRACTOR here under until CONTRACTOR demonstrates compliance with the requirements hereof; or,
 - b. Terminate the Agreement.

SAFETY PROGRAM

OVERLAND CONTRACTING INC. 2/26/18

CONTRACTOR shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work.

CONTRACTOR shall take all necessary precautions for the safety of, and shall provide all necessary protection to prevent damage, injury, or loss to:

1. All employees on the Work site and all other persons who may be affected thereby.
2. All the Work, materials, and equipment to be incorporated therein, whether in storage on or off the site.
3. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

CONTRACTOR shall comply with all applicable laws, ordinances, rules, regulations, and others of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss. He shall erect and maintain, as required by existing conditions and progress on the work, all necessary safeguards for safety and protection, including posting danger signs, other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent utilities. CONTRACTOR shall comply with OSHA'S Hazard Communication Standards.

CONTRACTOR shall designate a responsible member of its organization at the site whose duty shall be the prevention of accidents.