

REGIONAL FIRE TRAINING FACILITY USE

CONTRACT No. 26300058 – Truckee Meadows Fire Protection District
This CONTRACT No. 26300058, REGIONAL FIRE TRAINING FACILITY ANNUAL USE AGREEMENT, is made by and between Carson City, a consolidated municipality and political subdivision of the State of Nevada, hereinafter referred to as the "CITY," and Truckee Meadows Fire Protection District hereinafter referred to as the "USER." USER and CITY may be individually referred to as "Party" and collectively referred to as "Parties."

1. CONTRACT TERM:

This Contract shall be effective beginning on the date it is fully executed by the Parties, and it expires June 30, 2026, unless sooner terminated by either Party as specified in this Contract. This Contract may be terminated by either Party with or without cause by giving the other Party thirty (30) calendar days written notice of the intent to terminate and specifying the date upon which the termination will be effective.

2. NOTICE:

2.1 All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by e-mail, by telephonic facsimile with simultaneous regular mail, or by certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other Party at the address specified below.

2.2 Notice to the **USER** shall be addressed to:

Truckee Meadows Fire Protection District
Jay Cwiak, Division Chief, Training and Logistics
3663 Barron Way
Reno, NV 89511
775-326-6000
Email: jcwiaak@tmfpd.us

2.3 Notice to the **CITY** shall be addressed to:

Carson City Purchasing and Contracts
Carol Akers, Purchasing and Contracts Administrator
201 North Carson Street, Suite 2
Carson City, NV 89701
775-283-7362/ FAX 887-2286
cakers@carson.org

AND

Carson City Fire Department
Kevin Nyberg, Acting Fire Chief
777 South Stewart Street
Carson City, NV 89701
775-887-2210
knyberg@carson.org

For P&C Use Only

GL expires _____
AL expires _____
WC expires _____

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3. FIRE TRAINING FACILITY USE:

Upon complete execution of this CONTRACT, the **USER** shall have use of the **FIRE TRAINING FACILITY**, hereinafter referred to as **FACILITY**, located at 2400 College Parkway, Carson City, Nevada, during the times and dates agreed upon by **CITY** and the **USER**.

The **USER** accepts all risks associated with the use of the **FACILITY**.

Any lost, stolen, or damaged articles or equipment shall be the responsibility of the **USER**.

Valuables shall not be kept in the classroom or the lockers. Storage of items in lockers or classroom is for duration of class only.

All locks on the lockers must be removed after completion of the class.

The **USER** shall not make any adjustments to the pre-set temperature for either of the two (2) thermostats inside the building. One of the thermostats is located in the office and it controls part of the classroom and the bathrooms. The other thermostat is located in the large classroom and it controls part of the classroom and the hall.

The **USER** is responsible for providing all dry erase pens, markers, flip charts, etc.

The **FACILITY** shall be vacated by the **USER** immediately upon notification by the **CITY**. The **CITY** reserves the right of refusal for **FACILITY** reservations.

4. CLEANING OF FACILITY:

The **USER** shall be responsible for cleaning the **FACILITY** and returning it to a neat and presentable condition.

If the **FACILITY** is left in an unacceptable condition as determined by the **CITY's** personnel, the **CITY** has the right to correct the condition and the **USER** agrees to pay for any costs incurred.

The **USER** shall clean the classroom and bathroom areas after each class session and keep the premises clean during use. Cleaning supplies are kept under the vanities or in the storage room inside the utility room adjacent to the kitchen area.

The following is a guide to be utilized when cleaning:

Classrooms:

- Counters/Cabinets/Trash Cans
 - Wiped down
 - Cleared off
 - Emptied

Hallway:

- Dust-mopped
- Damp-mopped

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- | | |
|--|---|
| <ul style="list-style-type: none">○ <u>Sinks</u><ul style="list-style-type: none">▪ Cleaned▪ No items left in sink
○ <u>Floors</u><ul style="list-style-type: none">▪ Dust-mopped▪ Damp-mopped
○ <u>Chairs/Tables</u><ul style="list-style-type: none">▪ Left in original classroom configuration▪ Chairs and tables straightened▪ Tables wiped off
○ Dry Erase Boards<ul style="list-style-type: none">▪ Cleaned | <p><u>Office:</u></p> <ul style="list-style-type: none">○ Carpets vacuumed○ Desks/cabinets cleaned
<p><u>Bathrooms:</u></p> <ul style="list-style-type: none">○ Floors damp-mopped○ Counter tops wiped down○ Sinks/fixtures cleaned○ Showers cleaned○ Toilets/urinals cleaned out○ Lockers cleared out / cleaned |
|--|---|

5. BURN BUILDING AND CLASS A BURN CONTAINER:

A burn plan, completed in accordance with the National Fire Protection Agency (“NFPA”) 1403 Standard on Live Fire Training Evolutions, must be submitted to the Carson City Fire Department (“CCFD”) Training Captain and approved by the CCFD Fire Chief, or his/her designee, two (2) weeks prior to burn. **USER** is responsible for obtaining written approval of the burn plan from the CCFD Fire Chief or his/her designee prior to the burn.

USER is responsible for providing properly trained operators when utilizing the burn building and the associated appliances. Operators shall be trained in accordance with established policies and procedures established by the Regional Burn Cadre. **USER** shall submit a list of operators to the CCFD Training Captain, via email, a minimum of five (5) working days prior burn. **USER** is responsible for obtaining written (email) authorization to proceed with the proposed operators from the CCFD Fire Chief or his/her designee prior to burn.

Any use of the Class A burn container must follow NFPA 1403 guidelines and include at least three (3) members of the Regional Burn Cadre as the instructors. A burn plan for the Class A burn container, completed in accordance with NFPA 1403, and identifying the three (3) members of the Regional Burn Cadre to serve as the instructors must be submitted to the CCFD Training Captain and approved by the CCFD Fire Chief, or his/her designee, two (2) weeks prior to burn. **USER** is responsible for obtaining written approval of the Class A burn container burn plan from the CCFD Fire Chief or his/her designee prior to the burn.

The **USER** is responsible for providing approved fuels (Class A and straw) for burning. The fuels must only be used in the proper rooms identified for those specific fuels.

If the burn building/rooms are left in an unacceptable condition as determined by the **CITY’S** personnel, the **CITY** has the right to correct the condition and the **USER** agrees to pay for any costs incurred. The **USER** must fully extinguish all fuels before leaving and the ashes must be placed into the appropriate dumpster.

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The **USER** will monitor ceiling temperatures using the exterior temperature gauge and will not exceed 1000° F at ceiling height.

6. PROPANE PROPS:

USER is responsible for providing properly trained operators when utilizing the propane props. **USER** shall submit the training plan and a list of operators to the CCFD Training Captain, via email, a minimum of five (5) working days prior to the burn. **USER** is responsible for obtaining written (email) authorization to proceed with training utilizing propane props from the CCFD Fire Chief or his/her designee prior to burn.

The **USER** must report any problems with the propane props to the CCFD Training Captain, or if unable to contact the Training Captain, the duty CCFD Battalion Chief, by close of business on the day of the incident.

The **USER** must not utilize any propane prop that is not functioning properly.

The **USER** must re-fill the propane tank to original tank level. CCFD Training Captain will verify propane levels before and after use.

7. REGIONAL FIRE ACADEMY

7.1 If **USER** participates in the Regional Fire Academy, **USER** agrees to pay to **CITY** the assessed cost of each academy and academy graduation, hereinafter collectively referred to as "Academy Costs," as follows:

7.1.1 An annual fee of \$5,000 to be a participant in the regional fire academy to cover maintenance costs to the facility associated with fire academy functions.

7.1.2 **USER's** pro rata share of academy costs, based on the total number of participants enrolled on the academy start date and the number of **USER** employees enrolled in the academy on the academy start date.

7.1.3 **USER's** pro rata share of academy graduation costs, based on the total number of participants graduating from the academy and the number of **USER** employees graduating from the academy.

7.2 At least 5 business days prior to each academy start date, **USER's** Fire Chief (or designee), **CITY's** Fire Chief (or designee), and the Fire Chief (or designee) from each Regional Fire Academy participating agency shall reach an agreement, pursuant to good faith negotiations, concerning how and when all Academy Costs required under this section will be paid to **CITY**.

8. FACILITY KEYS:

The **USER** shall be responsible to pick up keys to the **FACILITY** from the CCFD Training Captain, located at CCFD Station 52, on the first day of the approved **FACILITY** reservation. The **USER** must not allow any other entity or individual to have access to the keys.

The **USER** shall return the **FACILITY** keys to CCFD Station 52, after the completion of **USER's** scheduled use of the **FACILITY**.

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The **USER** shall secure the **FACILITY** at the conclusion of each day of training.

In the event of lost keys, **USER** agrees to pay the **CITY** two hundred fifty dollars (\$250.00) for the cost of replacement.

9. SCHEDULE:

The **USER** shall email the CCFD Training Captain at ccfdtrainingdivision@carson.org to make reservations. CCFD will provide a written response to the scheduling request within seven (7) calendar days after receipt of request, and, if the request is approved, that written response will include confirmation of the date(s) and time(s) the **FACILITY** will be available to **USER**.

10. USER'S RESPONSIBILITIES:

The **USER** accepts all risk associated with the use of the **FACILITY** and is responsible for informing its employees, authorized volunteers, contractors, agents, and any others performing work for the **USER** about (1) the risks associated with the use of the **FACILITY**, (2) the condition of the **FACILITY**, and all terms and restrictions associated with **FACILITY** use.

The **USER** shall at all times enforce discipline and good order among its employees, authorized volunteers, contractors, agents, and any others performing work for the **USER**. The **USER** agrees to be held responsible for the conduct of each of its employees, authorized volunteers, contractors, agents, and any others performing work for the **USER**, for their conformance with the terms and conditions of this Contract.

The **USER** shall be responsible for maintaining a list of the individuals providing supervision and instruction at the **Facility**. Copies of their training certificates shall be made available to the CCFD Training Division upon request. These individuals shall provide supervision for all **USER** activities at the **FACILITY**.

The **USER** agrees that only employees, authorized volunteers, contractors, agents, and others performing work for the **USER** will be upon the **FACILITY** grounds during the training, and that once the training is complete and the **FACILITY** is clean and set up for the following day, the employees, authorized volunteers, contractors, agents, and any others performing work for the **USER** will immediately leave the premises.

The **USER** agrees that the **FACILITY** is only to be used for training purposes.

11. CITY'S RESPONSIBILITIES:

The **FACILITY** will be maintained by the **CITY** staff.

Should circumstances require cancellation of the class, the **USER** will be given as much notice as possible. If **USER** fails to comply with **CITY's** cancellation, this Contract shall be deemed terminated.

The **CITY** reserves the right to authorize use of the **FACILITY** by other entities during dates and times not requested and reserved by the **USER**.

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12. SCHEDULE OF FEES AND TERMS OF COMPENSATION:

- 12.1 The **USER** shall reimburse the **CITY** for the salaries of the **CITY's** personnel utilized at the **FACILITY** during the training. Reimbursement must be received by the **CITY** within sixty (60) days of the invoice.
- 12.2 The **USER** shall pay for **FACILITY** use through a non-refundable Annual Operations and Use fee and Annual Capital Improvement fee (together, "Fees"). Payment of the Fees provides **USER** unlimited, scheduled use of the **FACILITY** for the term of this Contract in accordance with the terms outlined herein.
- 12.3 Ninety percent (90%) of the Fees will be placed into a specialized CCFD budget account for the direct operation, maintenance, and Capital Improvement and replacement of the **FACILITY** ("Facility Account"). Funds in the Facility Account that remain unallocated over the course of the fiscal year in which they are credited to the Facility Account shall remain in the Facility Account for qualifying use and disbursements in succeeding years. Ten percent (10%) of Fees will be placed in the Carson City General Fund to cover administrative costs associated with the training grounds including billing, scheduling, and maintenance.
- 12.4 The Fees are in addition to the Academy Costs, described in Section 7; however, the Academy Costs only apply only if **USER** participates in a Regional Fire Academy during the term of this Contract. **USER** must pay the Fees, regardless of whether **USER** is participating in a Regional Fire Academy during the term of the Contract.
- 12.5. The schedule for the Fees owed from **USER** to **CITY** is as follows:
- 12.5.1 Annual Operations and User Fee - \$5,000.00
This is a flat fee paid on an annual basis.
- 12.5.2 Annual Capital Improvement Fee
This is a flat fee paid on an annual basis based on the size of **USER's** organization.
- | | |
|----------------|-------------|
| 0 – 50 Members | \$5,000.00 |
| 51+ Members | \$10,000.00 |

13. INDEMNIFICATION:

- 13.1 To the extent permitted by law, including, but not limited to, the provisions of Nevada Revised Statutes Chapter 41, each Party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other Party from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorney's fees and costs, arising out of any alleged negligent or willful acts or omissions of the indemnifying Party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of the indemnity which would otherwise exist as to any Party or person described in this paragraph.
- 13.2 Except as otherwise provided in Subsection 13.4 the indemnifying Party shall not be obligated to provide a legal defense to the indemnified Party, nor reimburse the indemnified Party for the same, for any period occurring before the indemnified

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Party provides written notice of the pending claim(s) or cause(s) of action to the indemnifying Party, along with:

13.2.1 A written request for a legal defense for such pending claim(s) or cause(s) of action; and,

13.2.2 A detailed explanation of the basis upon which the indemnified Party believes that the claim or cause of action asserted against the indemnified Party implicates the culpable conduct of the indemnifying Party, its officers, employees, and/or agents.

13.3 After the indemnifying Party has begun to provide a legal defense for the indemnified Party, the indemnifying Party shall not be obligated to fund or reimburse any fees or costs provided by any additional counsel for the indemnified Party, including counsel through which the indemnified Party might voluntarily choose to participate in its defense of the same matter.

13.4 After the indemnifying Party has begun to provide a legal defense for the indemnified Party, the indemnifying Party shall be obligated to reimburse the reasonable attorney's fees and costs incurred by the indemnified Party during the initial thirty (30) day period of the claim or cause of action, if any, incurred by separate counsel.

13.5 The Parties do not waive and intend to assert available NRS Chapter 41 liability limitations in all cases.

14. INDEPENDENT AGENCIES:

Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for the **CITY** whatsoever with respect to the indebtedness, liabilities, and obligations of the **USER** or any other party.

The **USER** shall indemnify and hold the **CITY** harmless from, and defend the **CITY** against, any and all losses, damages, claims, costs, penalties, liabilities, expenses arising out of or incurred in any way because of, but not limited to, the **USER'S** obligations or legal duties regarding any taxes, fees, assessments, benefits, entitlements, notice of benefits, employee's eligibility to work, to any third party, subcontractor, employee, state, local or federal governmental entity.

Neither the **USER** nor its employees, agents, or representatives shall be considered employees, agents, or representatives of the **CITY**.

This Contract does not contemplate any transfer of property or ownership interest between the Parties and the Parties will each maintain ownership of their own equipment and facilities.

15. INSURANCE REQUIREMENTS

15.1 Unless expressly waived in writing by the **CITY**, the **USER** must carry policies of insurance in amounts specified and pay all taxes and fees incident hereunto. The **CITY** shall have no liability except as specifically provided in this Contract.

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- 15.2 The **USER** shall not use the **FACILITY** before the **USER** has provided the required evidence of insurance to Carson City Purchasing and Contracts, and the **CITY** has approved the insurance policies provided by the **USER**.
- 15.3 Prior approval of the insurance policies by the **CITY** shall be a condition precedent to any use of the **FACILITY** under this Contract and the **CITY's** approval of any changes to insurance coverage during the course of this Contract shall constitute an ongoing condition subsequent in this Contract. Any failure of the **CITY** to timely approve shall not constitute a waiver of the condition.
- 15.4 **INSURANCE COVERAGE** *(15.5 through 15.29)*
- 15.5 The **USER** shall, at the **USER'S** sole expense, procure, maintain and keep in force for the duration of this Contract the following insurance conforming to the minimum requirements specified below. Unless specified herein or otherwise agreed to by the **CITY**, the required insurance shall be in effect prior to the use of the **FACILITY** by the **USER** and shall continue in force as appropriate until such time as the insurance is no longer required by the **CITY** under the terms of this Contract.
- 15.6 Any insurance or self-insurance available to the **CITY** shall be in excess of and non-contributing with any insurance required from the **USER**. The **USER'S** insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by the **CITY**, the **USER** shall provide the **CITY** with renewal or replacement evidence of insurance no less than thirty (30) calendar days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by this Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as the **USER** has knowledge of any such failure, the **USER** shall immediately notify the **CITY** and immediately replace such insurance or bond with an insurer meeting the requirements.
- 15.7 **GENERAL INSURANCE REQUIREMENTS** *(15.8 through 15.29)*
- 15.8 **Certificate Holder:** Each certificate shall list Carson City c/o Carson City Purchasing and Contracts, 201 N. Carson Street Suite 2, Carson City, NV 89701 as a certificate holder.
- 15.9 **Additional Insured:** By endorsement to the commercial general liability insurance policy evidenced by the **USER**, The City and County of Carson City, Nevada, its officers, employees and immune contractors shall be named as additional insureds for all liability arising from this Contract.
- 15.10 **Waiver of Subrogation:** Each liability insurance policy shall provide for a waiver of subrogation in favor of the **CITY**.
- 15.11 **Cross-Liability:** All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.

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- 15.12 **Deductibles and Self-Insured Retentions:** Insurance maintained by the **USER** shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by the **CITY**. Such approval shall not relieve the **USER** from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$5,000 per occurrence, unless otherwise approved by the **CITY**.
- 15.13 **Policy Cancellation:** Except for ten (10) calendar days notice for non-payment of premium, the **USER** or its insurers must provide thirty (30) calendar days prior written notice to Carson City Purchasing and Contracts, if any policy will be canceled, non-renewed or if coverage and/or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mail to Carson City Purchasing and Contracts, 201 North Carson Street Suite 2, Carson City, NV 89701. When available, each insurance policy shall be endorsed to provide thirty (30) days' notice of cancellation, except for ten (10) days' notice for non-payment of premium, to the **CITY**.
- 15.14 **Approved Insurer:** Each insurance policy shall be issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers under federal and Nevada Law, and having agents in Nevada upon whom service of process may be made, and currently rated by A.M. Best as "A-VII" or better.
- 15.15 **Evidence of Insurance:** Prior to using the **FACILITY**, the **USER** must provide the following documents to Carson City Purchasing and Contracts, 201 North Carson Street Suite 2, Carson City, NV 89701:
- 15.15.1 **Certificate of Insurance:** the **USER** shall furnish **CITY** with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth herein. The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to Carson City Purchasing and Contracts to evidence the insurance policies and coverages required of the **USER**.
- 15.15.2 **Additional Insured Endorsement:** An Additional Insured Endorsement (CG20 10 or C20 26), signed by an authorized insurance company representative, must be submitted to Carson City Purchasing and Contracts to evidence the endorsement of the **CITY** as an additional insured per Subsection 15.9.
- 15.15.3 **Schedule of Underlying Insurance Policies:** If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the Underlying Schedule from the Umbrella or Excess insurance policy may be required.
- 15.16 **Review and Approval:** Documents specified above must be submitted for review and approval by Carson City Purchasing and Contracts prior to use of the **FACILITY** by the **USER**. Neither approval by the **CITY** nor failure to disapprove the insurance furnished by the **USER** shall relieve the **USER** of the **USER'S** full responsibility to provide the insurance required by this Contract. Compliance with

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the insurance requirements of this Contract shall not limit the liability of the **USER** or its sub-contractors, employees or agents to the **CITY** or others, and shall be in addition to and not in lieu of any other remedy available to the **CITY** under this Contract or otherwise. The **CITY** reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

15.17 COMMERCIAL GENERAL LIABILITY INSURANCE: (15.18 through 15.22)

15.18 **Minimum Limits:** The **USER** shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with the following, required Minimum Limits:

15.18.1 Two Million Dollars (\$2,000,000) - General Aggregate

15.18.2 One Million Dollars (\$1,000,000) - Each Occurrence

15.19 CGL insurance shall be written on ISO occurrence form CG 00 01 04 13 (*or a substitute form providing equivalent coverage*) and shall cover liability arising from premises, operations, personal injury, civil lawsuits, Title VII liability, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

15.20 This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to **CITY**. There shall be no endorsement or modification of the CGL to make it excess over other available insurance; alternatively, if the CGL states that it is excess or pro rata, the policy shall be endorsed to be primary with respect to the additional insured.

15.21 There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability assumed under a contract.

15.22 **USER** waives all rights against **CITY** and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the commercial general liability or commercial umbrella liability insurance maintained pursuant to this Contract. Insurer shall endorse CGL policy as required to waive subrogation against **CITY** with respect to any loss paid under the policy.

15.23 BUSINESS AUTOMOBILE LIABILITY INSURANCE: (15.24 through 1.26)

15.24 **Minimum Limits:** The **USER** shall maintain automobile liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident for bodily injury and property damage.

15.25 Coverage shall be for “any auto”, including owned, non-owned and hired vehicles. The policy shall be written on ISO form CA 00 01, CA 00 05, CA 00 25, or a substitute form providing equivalent liability coverage.

15.26 The **USER** waives all rights against **CITY** and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by

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the automobile liability or other liability insurance obtained by **USER** pursuant this Contract.

15.27 WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE:
(15.28 through 15.29)

15.28 The **USER** shall provide proof of worker's compensation insurance as required by Nevada Revised Statutes Chapters 616A through 617 inclusive and Employer's Liability insurance with a minimum limit not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

15.29 The **USER** waives all rights against **CITY** and its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by the workers' compensation and employer's liability or commercial umbrella liability insurance obtained by **USER** pursuant to this Contract. **USER** shall obtain an endorsement equivalent to WC 00 03 13 to affect this waiver.

16. PUBLIC RECORDS; CONFIDENTIALITY:

Pursuant to NRS 239.010, information or documents, including this Contract, may be open to public inspection and copying. The Parties will have the duty to disclose, unless particular information or documents are made confidential by law or a common law balancing of interest. To the extent that information or documents are made confidential, the Parties shall keep such information or documents confidential.

17. RECORDS; RETENTION:

The Parties agree to keep and maintain, under general accepted accounting principles, full, true and complete records, agreements, books, and documents pertaining to this Contract, and at the request of the other Party agree to present, at any reasonable time, such records, agreements, books, and documents for inspection, examination, review, audit, and copying at any office where such records, agreements, books, and documents are maintained. The Parties further agree to, upon reasonable request of the other Party, provide any requested records, agreements, books, and documents that may be necessary for the performance or renegotiation of this Contract, or for any other reason pertaining to this Contract.

18. COMPLIANCE WITH LEGAL OBLIGATIONS:

The **USER** shall procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by the **USER** to provide the goods or services of this Contract. The **USER** will be responsible to pay all government obligations, including, but not limited to, all taxes, assessments, fees, fines, judgments, premiums, permits, and licenses required or imposed by law or a court. Real property and personal property taxes are the responsibility of the **USER** in accordance with Nevada Revised Statutes 361.157 and 361.159. The **USER** agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract. The **CITY** may set-off against consideration due any delinquent government obligation.

19. REMEDIES; WAIVER OF BREACH:

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- 19.1 Except as otherwise provided for by law or this Contract, the rights and remedies of the Parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing Party reasonable attorney's fees and costs. The Parties agree that, in the event a lawsuit is filed and a Party is awarded attorney's fees by the court, for any reason, the rate applied to recoverable attorney's fees shall not exceed the rate of \$125 per hour. The contract liability of the Parties under this Contract does not include punitive damages. Liquidated damages shall not apply unless otherwise expressly provided for elsewhere in this Contract.
- 19.2 Failure to declare a breach or the actual waiver of any particular breach of this Contract or its material or nonmaterial terms by either Party shall not operate as a waiver by such Party of any of its rights or remedies as to any other breach.
- 20. SEVERABILITY:**
If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.
- 21. ASSIGNMENT/DELEGATION:**
To the extent that any assignment of any right under this Contract changes the duty of either Party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by the **CITY**, such offending portion of the assignment shall be void, and shall be a breach of this Contract. The **USER** shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written approval of the **CITY**.
- 22. PROPER AUTHORITY:**
The Parties hereto represent and warrant that the person executing this Contract on behalf of each Party has full power and authority to enter into this Contract. The **USER** acknowledges that this Contract is effective only after approval by Carson City Purchasing and Contracts and signed by all Parties, and only for the period of time specified in this Contract. Any use of the **FACILITY** by the **USER** before this Contract is effective or after it ceases to be effective are performed at the sole risk of the **USER**.
- 23. GOVERNING LAW; JURISDICTION:**
This Contract and the rights and obligations of the Parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. The **USER** consents and agrees to the jurisdiction of the First Judicial District Court of Nevada for enforcement of this Contract.
- 24. COUNTERPARTS:**
This Contract may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument.
- 25. FORCE MAJEURE:**

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

26. NO THIRD-PARTY BENEFICIARY:

None of the provisions of this Contract, express or implied, are intended or will be construed to give the public, any member of the public, or any other person or entity the status of a third-party beneficiary or any legal or equitable right, benefit, remedy, or claim of any nature under or with respect to this Contract, or any provision of this Contract. The Parties intend that this Contract and all of its provisions and conditions are for the sole and exclusive benefit of the Parties to this Contract and their respective successors and assigns.

27. ENTIRE CONTRACT AND MODIFICATION:

This Contract and its integrated attachment(s) constitute the entire Contract of the Parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other Contracts that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the Parties unless the same is in writing and signed by the respective Parties hereto and approved by Carson City Purchasing and Contracts. Conflicts in language between this Contract and any other agreement between the **CITY** and the **USER** on this same matter shall be construed consistent with the terms of this Contract. The Parties agree that each has had their respective counsel review this Contract which shall be construed as if it was jointly drafted.

[SIGNATURE PAGE FOLLOWS]

REGIONAL FIRE TRAINING FACILITY USE

CONTRACT No. 26300058 – Truckee Meadows Fire Protection District

CARSON CITY

Attn: Carol Akers,
Purchasing and Contracts Administrator
201 North Carson Street, Suite 2
Carson City, Nevada 89701
Telephone: 775-283-7362
Fax: 775-887-2286
cakers@carson.org

CITY'S LEGAL COUNSEL

District Attorney
I have reviewed this Contract and approve
as to its legal form.

By:

Carol Akers

Dated:

By:

Authorized Designee

Dated:

I hereby concur with the initiation of this Contract and I certify that the USER will not be given authorization to use the FACILITY until this Contract has been signed by Purchasing and Contracts.

Undersigned says that he/she is the USER; that he/she has read the foregoing Contract; and that he/she understands the terms, conditions, and requirements thereof.

I further understand that I must not use the FACILITY until this Contract has been signed by Purchasing and Contracts.

CITY'S ORIGINATING DEPARTMENT

Carson City Fire Department
Kevin Nyberg, Acting Fire Chief
777 South Stewart Street
Carson City, NV 89701
Telephone: 775-887-2210 Ext. 7722
Fax: 775-887-2209
knyberg@carson.org

Truckee Meadows Fire Protection District
Jay Cwiak, Division Chief, Training and
Logistics
3663 Barron Way
Reno, NV 89511
775-326-6000
Email: jcwiak@tmfcpd.us

By:

Kevin Nyberg, Acting Fire Chief

Dated:

By:

User's Authorized Designee

Dated:
