

SUBSTRUCTURE INSTALLATION AGREEMENT

This Substructure Installation Agreement (“**SIA**” or “**Agreement**”) is made and entered by and between Nevada Power Company, a Nevada corporation, d/b/a NV Energy (“**Utility**”) and City of Las Vegas, a municipal corporation of the State of Nevada, (“**Applicant**”). Utility and Applicant are individually referred to as a “**Party**” and collectively as the “**Parties**.”

RECITALS

- (A) Applicant owns certain real property currently known as Clark County Assessor parcel numbers (APNs) 139-34-299-002, 139-34-299-009, 139-34-299-010, 139-34-299-012, 139-34-299-025, 139-34-299-026, and 139-34-299-028 and PQ Las Vegas, LLC owns certain real property currently known as APN 139-34-201-022 located in the Las Vegas, Nevada (the “**Property**”). Applicant is developing that property and other property for the City of Las Vegas City Hall Project (“**City Hall Project**”).
- (B) At Applicant’s request and expense and through a Facilities Relocation Agreement dated March 9, 2009 between Utility and Forest City Commercial Development, Inc., a California corporation, (contract no. 08-02161), Utility relocated a portion of the Lewis-Shadow and Garces-Lewis 69kV transmission lines from Garces Substation, then north crossing Garces Ave. and Main St., then northeast along the west side of Main St., past Lewis Ave., crossing Main St., then continuing southeast to Lewis Substation (“**Rerouted Overhead TL Facilities**”).
- (C) In the future, Applicant would like Utility to underground the Rerouted Overhead TL Facilities (“**Garces-Lewis Relocation**”). Before Utility will underground those facilities, Utility must receive all Property Rights it deems necessary for the Garces-Lewis Relocation, the Parties must sign a relocation agreement for the Garces-Lewis Relocation acceptable to Utility (“**FRA U/G**”) and certain property owners must sign Utility’s then current, standard Transmission Use Agreement.
- (D) Before Utility performs design work for the Garces-Lewis Relocation and the Parties sign the FRA U/G, Applicant would like to trench, install conduit, splice vaults, manholes and pull boxes, backfill, and perform other substructure work associated with the future Garces-Lewis Relocation in accordance with the drawings attached to this SIA as Exhibit C on a portion of the Property between Lewis Avenue and Clark Avenue (“**Substructure Installation**”).
- (E) At the request of and to accommodate the Applicant’s construction schedule for the City Hall Project, Utility agrees that Applicant may perform the Substructure Installation provided Applicant complies with this SIA.
- (F) Applicant agrees to pay for all Costs associated with the Substructure Installation, to provide Utility with all Property Rights Utility deems necessary for the Garces-Lewis Relocation, including an easement in the form attached as Exhibit D-2, and to obtain or cause third parties to provide Property Rights Utility deems necessary for the Garces-Lewis Relocation, including easement(s) in the form attached as Exhibit D-1.
- (G) Applicant acknowledges that Utility might not use any of the Substructure Installation installed under this SIA for the Garces-Lewis Relocation or any other project.

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- (H) Applicant acknowledges that (1) it must follow Utility's procedures for identifying and resolving conflicts between the City Hall Project and Utility's above-ground and underground electric transmission and distribution facilities, (2) Applicant must (at Applicant's expense) remove any improvements that Utility, in its discretion, determines are in conflict and (3) Utility will only waive or approve a particular conflict through Utility's standard use agreement signed by the property owner(s) and Utility, duly notarized, and recorded.

In consideration of the above recitals, mutual covenants, terms and conditions contained in this Agreement, the Parties agree as follows:

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DEFINITIONS

In addition to other terms defined elsewhere in this Agreement, when the following terms appear, whether used in the singular or plural, they have the following meanings.

- 1.1 Conduit Systems: All facilities constructed and equipment installed under this Agreement in connection with the Substructure Installation, including but not limited to conduit, splice vaults, manholes, and pull boxes.
- 1.2 Contributions in Aid of Construction ("CIAC"): Costs including, but not limited to, those referred to in Rule 9, Sections A.3, A.5, A.6, A.9, and A.10.
- 1.3 Costs: Direct and related indirect costs associated with this Agreement, including but not limited to: permitting; labor; inspection; engineering; contractors and subcontractors; third-party attachments to Utility facilities; administrative and general overheads; local, state and federal taxes and assessments; Allowance for Funds Used During Construction [AFUDC]; litigation guarantees; appraisals; attorneys' fees and expenses; acquisition of and compensation for Property Rights; expenses associated with acquiring an easement(s) for the Garces-Lewis Relocation whether through negotiation or a condemnation lawsuit(s); proportionate share attachments; and improvements to real property that are related to the Garces-Lewis Relocation but not directly related to electrical requirements, such as fencing and landscaping, reduced by any applicable salvage value.
- 1.4 CTO Package: Construction turnover package that generally contains a copy of Exhibit C and Utility's installation specifications for the Substructure Installation.
- 1.5 Effective Date: The date this Agreement is last signed below.
- 1.6 Laws: Any federal, state, or local code, ordinance, rule, statute, enactment, regulation, or order. Any specific reference to a Law in this Agreement refers to the Law as amended from time to time unless otherwise specified.
- 1.7 Permit: Any applicable approval, permit, consent, waiver, exemption, variance, franchise, order, authorization, right, action, or license required from any federal, state, or local governmental authority, agency, court or other governmental body having jurisdiction over the matter in question which is necessary for the Parties to perform their obligations under this Agreement and under the applicable Laws. Any

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specific reference to a Permit in this Agreement refers to the Permit as amended from time to time unless otherwise specified.

- 1.8 Project Manager: The individual appointed by each Party to serve as the single point of contact for all issues relating to the Agreement.
- 1.9 Property Rights: Real property rights such as easements, rights of entry, subordination agreements, conveyances, deeds, transmission use agreements, Permits, prescriptive rights, and rights-of-way.
- 1.10 Rule 1: Utility's Electric Service Rule No. 1, Definitions. Rule 1 is part of the Tariff Schedules.
- 1.11 Rule 9: Utility's Electric Service Rule No. 9, Electric Line Extensions. Rule 9 is part of the Tariff Schedules and is the version in effect as of the Effective Date unless stated otherwise. The applicable provisions of Rule 9 apply to this Agreement.
- 1.12 Tariff Schedules: The entire body of effective rates, charges, and rules, collectively, of the Utility as set forth in its rate schedules and rules for electric customers, as those rates, charges, and rules are amended from time to time unless stated otherwise.
- 1.13 Tax Effect: The amount of any gross-up on Utility tax liability under Section 118 of the Internal Revenue Service Code for CIAC and Applicant's non-cash contributions that Applicant must pay in accordance with the Nevada Administrative Code (NAC) § 704.6532 and Rule 9, as amended.
- 1.14 Utility Standards: Utility's required design, construction, material, and testing specifications as provided in writing to Applicant on Utility's website or otherwise, as subsequently revised as deemed appropriate in Utility's discretion.

2. PROJECT SCOPE

- 2.1 Utility's Scope of Work. Utility will, at Applicant's Cost, perform (or cause to be performed) the following in association with this Agreement:
 - (A) Perform Property Rights research and, as necessary, prepare and review Property Rights documents.
 - (B) Review Applicant's survey data.
 - (C) Provide a CTO Package to Applicant within ten business (10) days after the Effective Date.
 - (D) Inspect the Substructure Installation.
- 2.2 Applicant's Scope of Work. In addition to other obligations identified in this Agreement, Applicant must (at no expense to Utility) perform the following:
 - (A) Construct, and cause its agents, contractors and subcontractors (all of whom must be approved in advance, in writing, by Utility) to construct, the Substructure Installation in accordance with Exhibit C, or any amendments to it, using a contractor and/or subcontractor(s) acceptable to NV Energy.

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- (B) Construct, and cause its agents, contractors and subcontractors to construct, the Substructure Installation in accordance with all applicable Laws (such as OSHA), Utility Standards, the Tariff Schedules, and the National Electrical Safety Code.
- (C) Coordinate construction activities inside any Utility Property Rights (that are performed on Applicant's behalf) with Utility and have a Utility inspector on-site during the Substructure Installation.
- (D) During Substructure Installation:
 - (1) Provide, within five (5) days prior to commencement of excavation, center line stakes and offset stakes at 25' intervals with grades to bottom of trench, and provide staking table with offsets and grades and control points;
 - (2) Provide offset stakes with grades to all corners of manholes, splice vaults and hand holes (not to corner of pad);
 - (3) Collect, and provide to Utility within five (5) days of its written request, as-built data at each staked location which must consist of the horizontal distance from offset stake, depth to bottom of trench, depth to top of conduit bundle and depth to top of concrete, and provide staking table with offsets and grades and control points;
 - (4) Collect, and provide to Utility within five (5) days of its written request, as-built data to identify the depth of all manholes, splice vaults and hand holes, and provide staking table with offsets and grades and control points;
 - (5) Provide Utility immediate access to site, trench, conduit, manholes, and splice vaults; and
 - (6) Provide Utility a minimum of 48 hours notice before installing any duct bank encasement.
- (E) Prepare and, after the Substructure Installation is complete, provide Utility with as-built legal descriptions for the Conduit Systems.

3. APPLICANT'S ACTIVITIES AROUND AND DAMAGE TO UTILITY FACILITIES

- 3.1 Damage to Utility Facilities. If Applicant, its agents, its contractors, or its subcontractors damage, have damaged, render unsafe or have rendered unsafe Utility's above-ground or underground distribution and transmission facilities located within or adjacent to the Property or City Hall Project area, Applicant must (A) pay all Costs to render those facilities safe, to relocate the facilities impacted, and to construct any new facilities needed, and (B) provide or obtain Property Rights in Utility's name for the relocated facilities and/or new facilities, at no expense to Utility and in a location and form satisfactory to Utility (including but not limited to the type of Property Rights, the dimensions of the Property Rights area, and terms and conditions of the Property Rights).

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- 3.2 Resolution of Conflicts with Utility's Property Rights and Payment of Costs. If Utility determines, in its discretion, that Applicant, its agents, its contractors, or its subcontractors interfered with Utility's Property Rights located on or adjacent to the Property or City Hall Project area, Applicant must (A) pay all Costs incurred by Utility that are associated with the interference and (B) either remove the interference and return the Property Rights area to a condition that is usable by Utility or provide or obtain replacement Property rights in Utility's name, at no expense to Utility and in a location and form satisfactory to Utility (including but not limited to the type of Property Rights, the dimensions of the Property Rights area, and terms and conditions of the Property Rights).
- 3.3 Prohibition Against Certain Activities During the Substructure Installation. At a minimum, Applicant:
- (A) Must not change the grade, install signs, construct metallic fences or other structures, or obstruct Utility's access to any Utility facilities.
 - (B) Must not stockpile, or allow others including its agents, contractors and subcontractors to stockpile, materials and/or equipment over or under any Utility facilities.
- 3.4 Prohibition Against Other Activities Inside the Utility's Property Rights and Under the Utility Facilities. At all times, Applicant must not conduct, or allow others including its agents, contractors and subcontractors to conduct, any other activities inside Utility's Property Rights and under any Utility facilities unless Applicant obtains Utility's prior written consent.

4. GUARANTEES

- 4.1 Guarantee Against Defects. Applicant guarantees, regardless of Utility's acceptance of the Conduit Systems, all work Applicant and its contractors/subcontractors perform and all material they furnish under this Agreement against defects in materials and workmanship beginning at the time of the installation of cable system and ending one year after the Garces-Lewis Relocation is complete and energized.
- 4.2 Utility's Option to Remedy Defect. Utility may, at its option and Applicant's sole Cost, either itself remedy or require Applicant to remedy any defect in materials or workmanship provided by Applicant and its contractors/subcontractors that develop during the guarantee period provided for in Section 4.1. The option and obligation to repair extend to any damage to facilities or work caused by the particular defect or repair of the defect. Applicant must remedy the defect(s) to Utility's satisfaction. Should Utility choose to remedy a defect, Applicant must pay Utility all Costs incurred within 30 days of receiving an invoice from Utility.

5. LIENS; OWNERSHIP AND USE OF THE CONDUIT SYSTEMS

- 5.1 Applicant Must Keep the Conduit Systems Free of Liens. Applicant must keep the Conduit Systems free and clear of any lien, claim, judgment, security interest, and encumbrance ("**Lien**") arising out of the purchase, design, installation, construction, and inspection of the Substructure Installation ("**Work**") by Applicant, its contractors,

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its subcontractors of any tier, and all laborers, materialmen, mechanics, and other similar persons.

- 5.2 Applicant's Obligation to Discharge the Lien. If any Lien arising out of the Substructure Installation is filed before or after Work is completed, and Utility provides Applicant written notice of the Lien, Applicant must obtain the release of (or otherwise satisfy) the Lien within 10 days of receiving notice. If Applicant fails to do so, (A) Utility may take such steps and make such expenditures as, in its discretion, it deems advisable to obtain release of or otherwise satisfy the Lien or Liens, and (B) Applicant will, upon demand, reimburse Utility for all costs incurred and expenditures made by Utility in obtaining the release or satisfaction
- 5.3 Laws Related to Processing Liens. Except as required by applicable Law, Applicant's obligation to indemnify Utility from Liens will not in any way be rendered unenforceable, or altered, amended, eliminated, or otherwise conditioned by any Laws related to processing such Liens. Except as required by applicable Law, Utility will have no obligation to deliver a copy of any notice of claim or right to a Lien to Applicant or any other person or entity.
- 5.4 Ownership of Conduit Systems. The Conduit Systems will become property owned and controlled by Utility after (A) Applicant and Utility sign the FRA U/G, (B) the duct bank system for the entire Garces-Lewis Relocation is installed, (C) Utility approves the condition of the Conduit Systems and determines it will use some or all of the Conduit Systems, (D) Applicant provides Utility with lien releases Utility requests for the Work and (E) Utility receives all Property Rights it deems necessary for the Garces-Lewis Relocation. To evidence the transfer of title to Utility of the Conduit Systems, within ten (10) business days of Utility's request, Applicant must sign and deliver to Utility a bill of sale in a form acceptable to Utility.
- 5.5 Obligation to Maintain/Repair Conduit Systems. Applicant must maintain, repair, and (if necessary) replace the Conduit Systems. If Utility installs cable and other equipment in all or a portion of the Conduit Systems in connection with the FRA U/G, Utility will be deemed to accept that portion of the Conduit Systems in which Utility actually installs cable/other equipment. Before Utility installs cable/other equipment in the Conduit Systems, Applicant must video inspect, re-mandrel, re-mule tape, and repair the conduit, as required by Utility and at Applicant's expense. If all or a portion of the Conduit Systems cannot be repaired, Applicant (at its expense) must replace that Conduit System. At Applicant's expense, Utility's underground inspector must then inspect and release the Conduit Systems. Applicant's obligation under this Section terminates upon Utility acceptance of the Conduit Systems (as defined above).
- 5.6 Obligation to Maintain Buffer Around Conduit Systems. Applicant (A) must not install, or allow any third party to install, any facilities within a three (3) foot horizontal distance to the duct bank for the Conduit Systems from a point two (2) feet below the duct bank to the surface and (B) must not allow any facilities to cross over or under the Conduit Systems unless those facilities have a minimum of two (2) feet of clear space to the encasement and cross at an angle of (+/-) 45 degrees – all as

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shown on the diagram attached as Exhibit F. For purposes of this Section, “duct bank” means the outer limits of the concrete encasing the embedded Conduit Systems.

- 5.7 No Obligation to Use Conduit Systems. Utility is not obligated to use any portion of the Conduit Systems for the Garces-Lewis Relocation or any other Utility project.
- 5.8 No Reimbursement Right. Applicant is not entitled to reimbursement of any money paid under this Agreement even if Utility uses none or only some of the Conduit Systems for the Garces-Lewis Relocation or another Utility project.

6. **SITE ACCESS, INFORMATION REQUESTED BY UTILITY, PROPERTY RIGHTS, AND APPLICABLE PERMITS**

- 6.1 Access on Applicant's Property. Applicant must permit Utility access to, over, and across, any property owned or controlled by Applicant, as Utility deems necessary for the purposes of carrying out this Agreement.
- 6.2 Obligation to Acquire and Convey Property Rights. Applicant must, without expense to Utility, grant and convey (or use commercially reasonable efforts to obtain for Utility) all Property Rights in a manner that is satisfactory to Utility as to type, location and form (including, but not limited to, the dimensions of the Property Rights area and terms and conditions relating to the Property Rights) that Utility deems it requires for the Garces-Lewis Relocation (or any portion of it). In Utility's discretion and at Applicant's Cost, Utility may obtain an appraisal(s) of the Property Rights. If Applicant cannot obtain one or more Property Rights, Utility (at Applicant's Cost) will, if permitted by Law, acquire those Property Rights so that they are satisfactory to Utility as to type, location and form (including, but not limited to, the dimensions of the Property Rights area and terms and conditions relating to the Property Rights). Applicant must deliver to Utility the original, fully signed Property Rights at the time or before the FRA U/G is signed. Utility will then record those Property Rights.
 - (A) Form of Easement: Non-Government Entities. With respect to easements from property owners that are non-government entities, Applicant must cause to be executed the easement in the form attached to this Agreement as Exhibit D-1.
 - (B) Form of Easement: Government Entities. With respect to easements from property owners that are government entities like Applicant, Applicant must execute or cause those property owners to execute the easement attached to this Agreement as Exhibit D-2.
- 6.3 Information Provided by and Needed from Applicant. Applicant understands that Utility relies on information provided by Applicant when performing Utility's obligations under this Agreement. Applicant understands that it has a continuing obligation to provide to Utility the most current and accurate information concerning Applicant's City Hall Project and any other project that might impact the Rerouted Overhead TL Facilities, the Garces-Lewis Relocation and any other Utility facilities. Applicant also understands that Utility is not aware of and cannot know all surface and subsurface field conditions. Notwithstanding anything to the contrary in this Agreement, Applicant assumes all responsibilities, liabilities, and Costs for repair,

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replacement, redesign, modification or other work to the facilities associated with this Agreement: (a) resulting from or arising out of incomplete, inaccurate or outdated data and other information supplied to Utility by Applicant; (b) resulting from or arising out of changes affecting the accuracy or completeness of data or information after it is supplied to Utility by Applicant; (c) resulting from or arising out of surface or subsurface field conditions; or (d) that were installed based on surveys or staking provided by Applicant or Applicant's contractors, subcontractors, or agents that are found to be located outside the recorded Property Rights granted for such facilities.

- 6.4 Obligation to Provide Information to Utility. Within ten (10) business days after Utility's written request, Applicant must provide information and documentation requested by Utility, such as information and documentation relating to the City Hall Project, to the amount(s) Applicant paid, if any, for third-party Property Rights, and, to the actual cost of Applicant's non-cash contributions to Utility pursuant to Rule 9, Section A.12.

7. COST RESPONSIBILITY, PAYMENT AND SETTLEMENT

7.1 Responsibility for Costs.

- (A) General Obligation. Applicant is responsible for all Costs associated with this Agreement.
- (B) Purchase Order. Applicant must deliver a purchase order to Utility in the amount of the Estimated Cost. Utility has no obligation to continue or begin any work in connection with this Agreement until after it receives the purchase order from Applicant.
- (C) Modified Purchase Order. At any time after Utility receives the purchase order required by Section 7.1(B), Utility may send Applicant a written request to increase the purchase order. Within thirty (30) days after the date identified on that request, Applicant must deliver the modified purchase order to Utility. If Applicant does not deliver the modified purchase order to Utility before that 30-day period expires, Utility (without liability to Applicant) may stop performing under this Agreement.
- (D) Increased Costs. If a condition in the field or some other event (such as surface or subsurface field conditions or conditions in a Permit) affects construction of the Substructure Installation, affects Utility's ability to perform its Section 2.1 scope of work or increases the Cost of the Substructure Installation, Applicant is responsible for those increased Costs.

- 7.2. Estimated Cost. The estimated Cost is \$84,638.13 ("**Estimated Cost**"). The actual Costs might be more or less than the Estimated Cost and it is possible that not all Costs are identified on Exhibit B; however, Applicant is required to pay the actual Costs. Any applicable Tax Effect is not being calculated currently but will be payable by Applicant under the FRA U/G and applied using the rate in effect in Rule 9 as of the date the subsequent FRA U/G is signed.

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- 7.3. Cost True-Up. No later than 60 days after the In-Service Date and after all Costs have been recorded, Utility will conduct a project audit and true-up to compare the Estimated Cost to the actual Costs associated with this Agreement, as amended, and with the Design Cost Agreement (“**Cost True-up**”). Utility will either invoice or refund the difference to Applicant.
- 7.4. Invoicing. Utility may periodically invoice Applicant for its Costs under this Agreement. Applicant must pay all invoices, even if Utility sends Applicant an invoice after Utility performed a Cost True-up and even if Utility provided a refund.
- 7.5. Payment of Invoices; Work Stoppage for Non-Payment. No later than thirty (30) days after receiving an invoice from Utility, Applicant must pay the invoice in full. If Utility does not receive timely payment, then Utility, in its discretion and without liability to Applicant, may stop performing under this Agreement. Any delay in payment might result in a delay in completion of the Substructure Agreement or cause Utility not to accept the Substructure Installation.
- 7.6. No Interest on Amounts Paid by Applicant. Utility will not pay Applicant any interest on the amount of any payment made in connection with this Agreement.
- 7.7. Interest on Amounts Due Utility. Any amount unpaid by Applicant and due under this Agreement will accrue interest at the then current per annum simple prime rate, as published in the Money Rates section of the Wall Street Journal, plus one percent (1%), from the original due date through the date of receipt of payment by Utility.
- 7.8. Right to Set Off.
- (A) Utility’s Right to Set Off Amounts Owed. Utility may set off any sum or obligation (whether or not arising under this Agreement) owed by Utility to Applicant against any sum or obligation (whether or not arising under this Agreement) owed by Applicant to Utility.
 - (B) Utility’s Right to Withhold Additional Amount. Utility may also deduct the following from any sum or obligation (whether or not arising under this Agreement) owed by Utility to Applicant:
 - (1) The value of any claim against Utility that Applicant has failed to settle in accordance with an indemnity obligation; and
 - (2) The amount to resolve all conflicts between the City Hall Project and any Utility facilities located within or adjacent to the Property or City Hall Project area (see Section 3.1).
 - (3) The amount to resolve all conflicts between the City Hall Project and Utility’s Property Rights located within and adjacent to the City Hall Project (see Section 3.2).

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- (C) Other Rights and Remedies. If Utility offsets any amount in accordance with this Section, Utility may still pursue all other rights and remedies it may have.

8. DEFAULT, TERM, AND OBLIGATIONS SURVIVING TERMINATION

8.1 Default.

- (A) Procedure. If a Party (“**Defaulting Party**”) fails to comply with the terms and conditions of this Agreement and the failure continues for 30 days after the Defaulting Party receives written notice of the particular failure from the other Party (“**Non-Defaulting Party**”), then the Non-Defaulting Party is entitled to declare a default. The Non-Defaulting Party is entitled to all remedies authorized by law, with the exception that Utility’s failure to achieve any scheduled date is not an event of default.
- (B) Notice to Utility’s Legal Department. In addition to sending written notice to Utility’s Project Manager, Applicant must also send a copy of that notice to Utility’s Legal Department at the address specified in the “Notices” Section of this Agreement.

- 8.2. Term of Agreement. This Agreement is effective on the Effective Date. Unless termination occurs as may be provided for in any other section in this Agreement, this Agreement terminates five (5) years from the Effective Date.

- 8.3. Section 8.3 True Up. If the Agreement terminates and Utility has not performed a Section 7.3 Cost True-up, then no later than sixty (60) days after all Costs have been recorded, Utility will conduct a project audit and true-up to compare the Estimated Cost to the actual Costs associated with this Agreement. Utility will either invoice or refund the difference to Applicant. This Section survives termination of this Agreement.

- 8.4. Obligations Surviving Default or Termination. Any default, expiration, or termination of this Agreement or excuse of performance for Force Majeure or otherwise does not release Applicant from any liability or obligation to Utility for:

- (A) Paying all Costs associated with the Agreement, whether incurred before or after excuse of performance, default or termination, and paying all Costs that result from excuse of performance, termination or a Party’s default.
- (B) Resolving all conflicts between Applicant’s City Hall Project and Utility’s distribution and transmission facilities located within or adjacent to Applicant’s project, at Applicant’s Cost.
- (C) Resolving all conflicts between Applicant’s City Hall Project and Utility’s Property Rights within and adjacent to Applicant’s City Hall Project.
- (D) Applicant’s obligations under Section 3.
- (E) Applicant’s obligations under Section 4.
- (F) Applicant’s obligations under Section 5.

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- (G) Applicant's obligations under Section 6.
- (H) Applicant's obligations under Section 10.
- (I) Applicant's obligations under Section 11.

The provisions of Section 7.4, Section 7.5, Section 7.6, Section 7.7 and Section 7.8 continue to apply to Section 8.4.

9. PRECEDENCE

- 9.1 Utility's Tariff Schedules; Commission. This Agreement is made by the Parties pursuant to Utility's Tariff Schedules. Those Tariff Schedules apply to this Agreement, are binding on the Parties, and supersede any portion of this Agreement should a conflict arise. However, the applicable portions of Rule 1 and Rule 9 that relate to Section 7 of this Agreement are the versions of those rules that are in effect as of the Effective Date. This Agreement is, at all times, subject to such changes or modifications by the Commission as the Commission may from time to time direct in the exercise of its jurisdiction.
- 9.2 Integration. This Agreement, together with all other written agreements executed with the same formality as this instrument directly in connection with the City Hall Project such as the Design Cost Agreement, represent the entire and integrated agreement between Utility and Applicant and supersede all prior and contemporaneous oral and written communications, representations, and agreements relating to the subject matter of the Agreement.

10. CONFIDENTIALITY

- 10.1 Exchanging Information. Utility might provide Applicant with information to be used in complying with the Agreement. Some or all of this information, including, but not limited to, oral information, documents, supplier information, files, drawings, and data, might be confidential.
- 10.2 Labeling Information Confidential. If Utility wants information to be treated as confidential, Utility must label the written information as "CONFIDENTIAL" ("**Confidential Information**").
- 10.3 Procedures for Protection of Confidential Information. To the extent allowed by Law, Applicant must keep all information designated as "Confidential Information" strictly confidential and not disclose any Confidential Information to any person or entity except as expressly provided in these procedures or as otherwise approved in writing in advance by Utility. Applicant must establish commercially reasonable procedures designed to maintain the confidentiality of Confidential Information, which procedures must include, but are not limited to.
 - (A) Not permitting or making any copies of, or otherwise duplicating, any Confidential Information; and
 - (B) Keeping all Confidential Information obtained or possessed by Applicant in a secure location.

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- 10.4 Return or Destruction of Confidential Information. Upon Utility's request, Applicant must promptly either return to Utility, or certify the destruction of, all Confidential Information that Applicant received, together with all copies, excerpts, notes and documents derived or generated from the Confidential Information.
- 10.5 Sharing Confidential Information. Applicant may disclose Confidential Information to its affiliates, attorneys, consultants, contractors and subcontractors (collectively, "**Third Parties**"). Applicant will ensure that these Third Parties abide by the terms of this Confidentiality Section.
- 10.6 Request for Confidential Information Through Legal Process. Notwithstanding anything to the contrary in this Confidentiality Section, if Applicant is requested by a third party or may be legally compelled to disclose Confidential Information (or portions of it), it must provide Utility with immediate written notice, as soon as practicable in the circumstances, after Applicant learns that a disclosure is requested or may be compelled, so that Utility may seek a protective order, injunction, or any other remedy. The written notice must identify with particularity the Confidential Information that is the subject of the request or for which disclosure may be compelled. If a protective order, injunction, or other remedy is not obtained, Applicant will furnish only that portion of the Confidential Information that Applicant is legally required to disclose. Applicant will cooperate with Utility's counsel if Utility seeks to obtain a protective order, injunction, or other remedy or other reliable assurance that confidential treatment will be accorded the Confidential Information.
- 10.7 Rights and Limitations. Utility does not grant any right or license, by implication or otherwise, to Applicant as a result of Utility's disclosure or discussion of Confidential Information. Utility makes no representation or warranties regarding the accuracy or completeness of this information. Applicant expressly recognizes that this information is provided "AS IS, with all faults" and Utility makes NO WARRANTIES, EXPRESS OR IMPLIED STATUTORY OR OTHERWISE, WITH RESPECT TO THE CONFIDENTIAL INFORMATION AND EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES.

11. INSURANCE AND INDEMNIFICATION

- 11.1 Insurance. Applicant must procure and maintain in effect and provide, and cause its contractors and subcontractors who are performing work in connection with this Agreement to procure and maintain in effect, the insurance coverages set forth in Exhibit E until after construction of the Substructure Installation is complete. The requirements of this "Insurance" Section are not intended to and will not in any manner limit or qualify the liabilities and obligations of Applicant under this Agreement.

11.2 [INTENTIONALLY OMITTED]

12. REPRESENTATIONS

- 12.1 Utility's Standing in Nevada. Utility represents that, as of the date of this Agreement, it is duly organized, validly existing and in good standing under the laws of the State

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of Nevada with the valid corporate power to enter into and perform all of its obligations under this Agreement.

- 12.2 Applicant's Standing in Nevada. Applicant represents that, as of the date of this Agreement, it (A) is duly organized, validly existing and in good standing under the laws of the State of California, (B) is registered as a foreign corporation, if applicable, and (C) is licensed to do business in the State of Nevada, and (D) has valid corporate or governmental power to enter into and perform all of its obligations under this Agreement.
- 12.3 Authority. Each Party has taken all actions as may be necessary or advisable and proper to authorize this Agreement, the execution and delivery of it, and the performance contemplated in it. The persons executing this Agreement state and acknowledge that they are authorized and empowered to do so on behalf of the Party so designated.

13. NOTICES

- 13.1 Method of Delivery. Each notice, consent, request, or other communication required or permitted under the Agreement must be in writing, delivered personally or sent by certified mail (postage prepaid, return receipt requested), by facsimile (with electronic confirmation of receipt), or by a recognized international courier, and addressed to the Party's Project Manager as identified in Exhibit A.
- 13.2 Receipt of Notice; Change of Information. Each notice, consent, request, or other communication is deemed to have been received by the Party to whom it was addressed (A) when delivered if delivered personally; (B) on the third business day after the date of mailing if mailed by certified mail; (C) on the first business day after the facsimile transmission if delivered by facsimile; or (D) on the date officially recorded as delivered according to the record of delivery if delivered by courier. Each Party may change its Project Manager or contact information for purposes of the Agreement by giving written notice to the other Party in the manner set forth above.
- 13.3 Reference to Contract Number. Applicant must include a reference to contract number 10-00212 in any notice to Utility and when paying any invoice.
- 13.4 Notice to Utility's Legal Department. For all notices given by Applicant to Utility under Section 8, Section 10, Section 13, or Section 14.5, Applicant must also send a copy of the notice to:

NV Energy
Attn: Legal Department
6226 West Sahara Avenue, M/S 3A
Las Vegas, NV 89146
FAX: (702) 402-2069

14. MISCELLANEOUS PROVISIONS

SUBSTRUCTURE INSTALLATION AGREEMENT

- 14.1 Limitation of Damages. Notwithstanding anything to the contrary, Utility is not liable to Applicant for any consequential, indirect, exemplary or incidental damages, including, but not limited to, damages based upon delay, lost revenues or profits.
- 14.2 No Waiver. The failure of either Party to enforce any of the provisions of the Agreement at any time, or to require performance by the other Party of any of the provisions of the Agreement at any time, will not be a waiver of any provisions, nor in any way affect the validity of the Agreement, or the right of any Party to enforce each and every provision.
- 14.3 Amendments. Any changes, modifications, or amendments to this Agreement are not enforceable unless consented to in writing by the Parties and executed with the same formality as this Agreement.
- 14.4 Counterparts. The Parties may execute this Agreement in counterparts. Each of these counterparts, when signed and delivered, is deemed an original and, taken together, constitutes one and the same instrument. A facsimile or email copy of a signature has the same legal effect as an originally-drawn signature.
- 14.5 Assignment. This Agreement is binding upon the successors and assigns of both Parties effective upon receipt of written consent of the non-assigning Party, such consent not to be unreasonably withheld. Notwithstanding the foregoing, either Party may assign this Agreement with written notice, but without the consent of the other Party, to any successor corporation in any merger. Applicant's successor or assignee must agree in writing to assume all obligations and liabilities under this Agreement.
- 14.6 Choice of Law and Venue. This Agreement is governed by and will be construed in accordance with the laws of the State of Nevada, without giving effect to its choice or conflicts of laws provisions. All actions that are beyond the scope of the Commission's jurisdiction must be initiated in the courts of Clark County, Nevada or the federal district court with jurisdiction over Clark County, Nevada. Applicant agrees it will not initiate an action against Utility in any other jurisdiction.
- 14.7 Discretion. Reference in this Agreement to the "discretion" of a Party means the Party's sole and absolute discretion. This discretion is not subject to any external standard, including, but not limited to, any standard of custom, "good faith" or reasonableness.
- 14.8 Commercially Reasonable Efforts. Reference in this Agreement to the "commercially reasonable efforts" of a Party means that, with respect to a given goal, the efforts that a reasonable person in the position of that Party would use so as to achieve that goal as expeditiously as possible.
- 14.9 No Third-Party Beneficiaries. Nothing expressed or implied in this Agreement is intended, or should be construed, to confer upon or give any person or entity not a party to this Agreement any third-party beneficiary rights, interests, or remedies under or by reason of any term, provision, condition, undertaking, warranty, representation, or agreement contained in this Agreement.

SUBSTRUCTURE INSTALLATION AGREEMENT

- 14.10 Remedies. All rights and remedies of the Parties provided for in this Agreement will be cumulative and in addition to, and not in lieu of, any other available remedies at law, in equity, or otherwise.
- 14.11 Headings; Exhibits; Cross References. The headings or section titles contained in this Agreement are used solely for convenience and do not constitute a part of this Agreement, nor should they be used to aid in any manner in the construction of this Agreement. All exhibits attached to this Agreement are incorporated into the Agreement by reference. All references in this Agreement to Sections, Subsections, and Exhibits are to Sections, Subsections, and Exhibits of or to this Agreement, unless otherwise specified.
- 14.12 Severability. If any portion or provision of the Agreement is invalid, illegal, or unenforceable, or any event occurs that renders any portion or provision of the Agreement void, the other portions or provisions of the Agreement will remain valid and enforceable. Any void portion or provision will be deemed severed from the Agreement, and the balance of the Agreement will be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The Parties further agree to amend the Agreement to replace any stricken portion or provision with a valid provision that comes as close as possible to the intent of the stricken portion or provision.
- 14.13 Performance of Acts on Business Days. Any reference in this Agreement to time of day refers to local time in Nevada. All references to days in this Agreement refer to calendar days, unless stated otherwise. Any reference in this Agreement to a "business day" refers to a day that is not a Saturday, Sunday or legal holiday (or observed as a legal holiday) for Nevada state governmental offices under the Nevada Revised Statutes. If the final date for payment of any amount or performance of any act required by this Agreement falls on a Saturday, Sunday or legal holiday, that payment is required to be made or act is required to be performed on the next business day.
- 14.14 Independent Contractors. Each Party is not and will not be deemed to be, for any purpose, the agent, representative, contractor or employee of the other by reason of this Agreement.

[signature page to follow]

SUBSTRUCTURE INSTALLATION AGREEMENT

NEVADA POWER COMPANY

d/b/a NV Energy

By: Adelma Thom
Adelma Thom
Sr. Project Manager

Date: 9-10-10

CITY OF LAS VEGAS

By: Gary Reese
~~Oscar B. Goodman~~
~~Mayor~~ Gary Reese, Mayor Pro-Tem

Date: September 1, 2010

ATTEST:

By: Beverly K. Bridges
Beverly K. Bridges, MMC
City Clerk

Date: September 1, 2010

APPROVED as to form:

By: John S. Ridilla
John S. Ridilla
Deputy City Attorney

Date: 8/19/10

SUBSTRUCTURE INSTALLATION AGREEMENT

Exhibit A

Agreement Contacts

Utility (Nevada Power Company d/b/a NV Energy)	
Address	6226 W. Sahara Ave. Las Vegas, NV 89146
Mailing Address	P.O. Box 98910, M/S 10 Las Vegas, NV 89151-0001
Project Manager	Adelma Thom
Telephone	(702) 402-5033
FAX	(702) 402-5489
Email	AThom@nvenergy.com

Applicant (City of Las Vegas, Department of Public Works)	
Address	400 Stewart Avenue Las Vegas, Nevada 89101
Project Manager	Jeremy P. Leavitt, P.E.
Telephone	(702) 229-6278
Cellular Telephone	(702) 376-7098
FAX	(702) 382-3232
Email	jeleavitt@lasvegasnevada.gov

SUBSTRUCTURE INSTALLATION AGREEMENT

Exhibit B

Estimated Cost

Description	Amount
Construction Management	\$15,562.65
Land Services and Survey	\$7,242.41
Transmission Engineering	\$7,028.57
Labor and Transportation Overheads	\$29,860.62
A & G Loading	\$1,031.00
Project Supervision (clearing)	\$4,381
Sub Total	\$65,106.25
30% Contingency	\$19,531.88
Estimated Cost	\$84,638.13

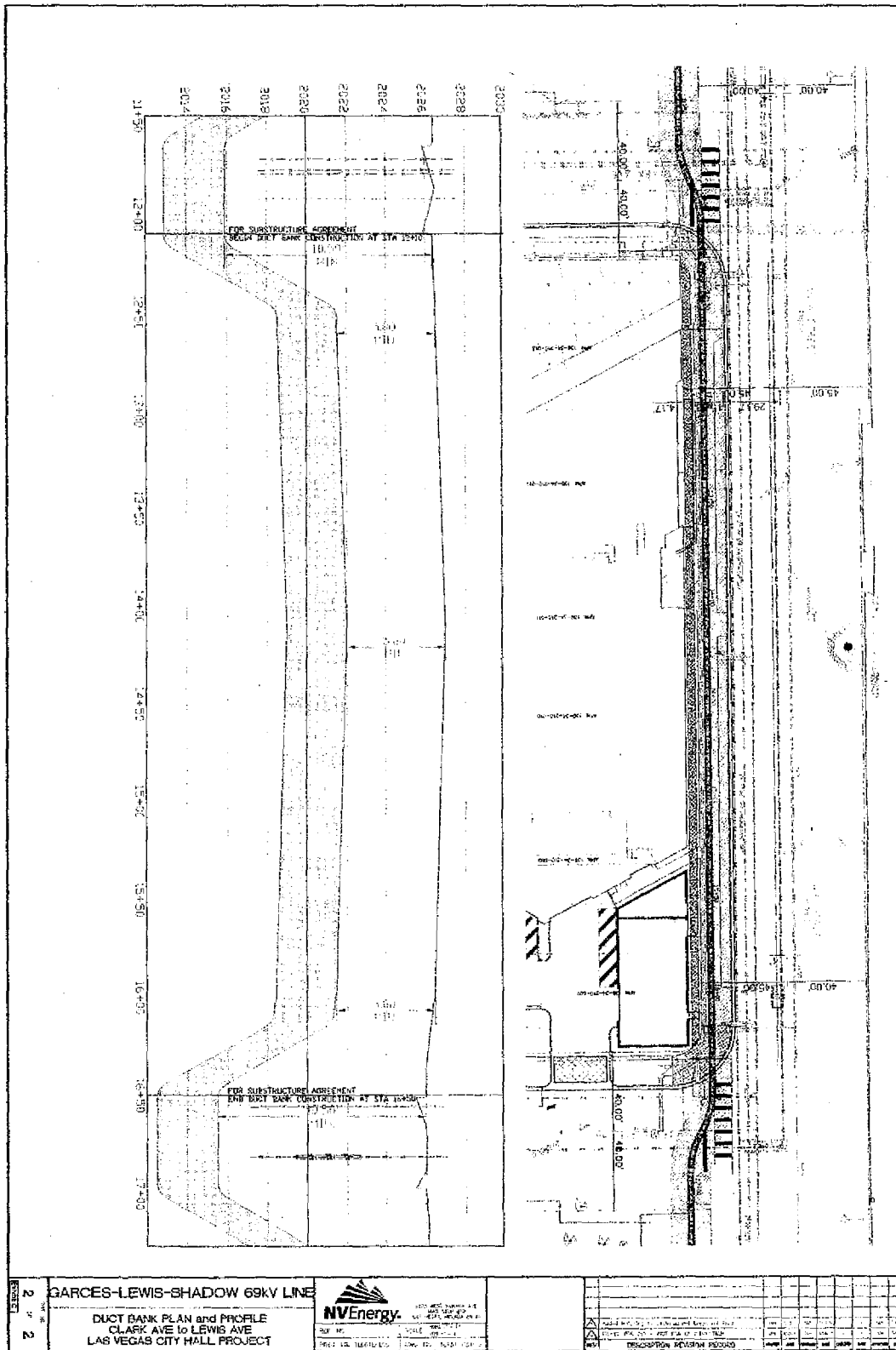
Utility Contract No: 10-00212
CLV City Hall Project
(rev. 4/2010)
Draft/Subject to Further Modification by NV Energy

SUBSTRUCTURE INSTALLATION AGREEMENT

Exhibit C

Drawings (Sheet 1)

[Attached]



SUBSTRUCTURE INSTALLATION AGREEMENT

Exhibit D1

(Form) Grant of Easement (Underground Electrical and Communication Facilities)

[Attached]

APN: {insert APN or APNs}

WHEN RECORDED MAIL TO:

Land Services
NV Energy
P.O. Box 98910 MS 9
Las Vegas, NV 89151-0001

GRANT OF EASEMENT

{insert Grantor's legal name}, a {insert state} {insert type of entity}, ("Grantor") for One Dollar (\$1.00) and other and good valuable consideration, receipt of which is hereby acknowledged, grants and conveys to Nevada Power Company, a Nevada corporation, d/b/a NV Energy ("Grantee"), its successors and assigns, a perpetual right and easement:

1. to construct, operate, add to, modify, maintain and remove aboveground and/or underground communication facilities and electric line systems for the distribution and transmission of electricity, consisting of poles, other structures, wires, cables, conduit, duct banks, manholes, vaults, transformers, service boxes/meter panels, cabinets, bollards, anchors, guys, and other equipment, fixtures, apparatus, and improvements ("Utility Facilities") upon, over, under and through the property described in Exhibit "A" hereto and by this reference made a part of this Grant of Easement ("Easement Area");
2. for the unrestricted passage of vehicles and pedestrians within, on, over and across the Easement Area; and
3. for the ingress of vehicles and pedestrians to and the egress of vehicles and pedestrians from, the Easement Area; and
4. to remove, clear, cut or trim any obstruction or material (including trees, other vegetation and structures) from the surface or subsurface of the Easement Area as Grantee may deem necessary or advisable for the safe and proper use and maintenance of the electric line systems and communication facilities in the Easement Area.

Grantee will be responsible for any damages, proximately caused by Grantee negligently constructing, operating, adding to, maintaining, or removing the Utility Facilities, to any tangible, personal property or improvements owned by Grantor and located on the Easement Area on the date Grantor signs the Grant of Easement. However, this paragraph does not apply to, and Grantee is not responsible for, any damages caused when Grantee exercises its rights under numbered paragraph 4 above.

Grantor covenants for the benefit of Grantee, its successors and assigns, that no building, structure or other real property improvements will be constructed or placed on or within the Easement Area without the prior written consent of Grantee (which Grantee will not unreasonably withhold), such structures and improvements to include, but not be limited to, drainage, trees, bridges, signage, roads, fencing, storage facilities, parking canopies, and other covered facilities. Grantee and Grantor must document Grantee's

RW#

Proj. #

Project Name:

Reference Document:

GOE

consent by both signing Grantee's standard, recordable use agreement. Grantor retains, for its benefit, the right to maintain, use and otherwise landscape the Easement Area for its own purposes; provided, however, that all such purposes and uses do not interfere with Grantee's rights herein and are in all respects consistent with the Grantee's rights herein, Grantee's electrical practices, and the National Electrical Safety Code.

GRANTOR:

{insert Grantor's legal name}

By: _____

Title:

STATE OF _____)

COUNTY OF _____)

This instrument was acknowledged before me on _____, _____ by
_____ as _____ of
_____.

Signature of Notarial Officer

Seal Area →

APN:

RW#

Proj. #

Project Name:

Reference Document:

GOE

Exhibit A

{insert legal description for and drawing of Easement Area}.

APN:
RW#
Proj. #
Project Name:
Reference Document:
GOE

SUBSTRUCTURE INSTALLATION AGREEMENT

Exhibit D2

(Form) Grant of Easement Government Agency (Underground Electrical and Communication Facilities)

[Attached]

Utility Contract No: 10-00212
CLV City Hall Project
(rev. 4/2010)
Draft/Subject to Further Modification by NV Energy

APN: {insert APN or APNs}

WHEN RECORDED MAIL TO:

Land Services
NV Energy
P.O. Box 98910 MS 9
Las Vegas, NV 89151-0001

GRANT OF EASEMENT

{insert Grantor's legal name}, a {insert state} {insert type of entity}, ("Grantor") for One Dollar (\$1.00) and other and good valuable consideration, receipt of which is hereby acknowledged, grants and conveys to Nevada Power Company, a Nevada corporation, d/b/a NV Energy ("Grantee"), its successors and assigns, a perpetual right and easement:

1. to construct, operate, add to, modify, maintain and remove aboveground and/or underground communication facilities and electric line systems for the distribution and transmission of electricity, consisting of poles, other structures, wires, cables, conduit, duct banks, manholes, vaults, transformers, service boxes/meter panels, cabinets, bollards, anchors, guys, and other equipment, fixtures, apparatus, and improvements ("**Utility Facilities**") upon, over, under and through the property described in Exhibit "A" hereto and by this reference made a part of this Grant of Easement ("**Easement Area**");
2. for the unrestricted passage of vehicles and pedestrians within, on, over and across the Easement Area and;
3. for the ingress of vehicles and pedestrians to and the egress of vehicles and pedestrians from, the Easement Area and
4. to remove, clear, cut or trim any obstruction or material (including trees, other vegetation and structures) from the surface or subsurface of the Easement Area as Grantee may deem necessary or advisable for the safe and proper use and maintenance of the electric line systems and communication facilities in the Easement Area.

Grantee will be responsible for any damages, proximately caused by Grantee negligently constructing, operating, adding to, maintaining, or removing the Utility Facilities, to any improvements owned by Grantor and to any tangible personal property. However, this paragraph does not apply to, and Grantee is not responsible for, any damages caused to obstructions or materials being removed, cleared, cut or trimmed when Grantee exercises its rights under numbered paragraph 4 above. Nor does this paragraph apply to, and Grantee is not responsible for, any damages proximately caused by Grantor's negligent or intentional actions or omissions, including but not limited to Grantor's failure to comply with the National Electrical Safety Code, Occupational Safety and Health Administration requirements and chapter 455 of the Nevada Revised Statutes.

RW#
Project. #
Project Name:
Reference Document:
GOE

Grantor covenants for the benefit of Grantee, its successors and assigns, that no building, structure or other real property improvements will be constructed or placed on or within the Easement Area without the prior written consent of Grantee (which Grantee will not unreasonably withhold), such structures and improvements to include, but not be limited to, drainage, trees, bridges, signage, roads, fencing, storage facilities, parking canopies, and other covered facilities. Grantee and Grantor must document Grantee's consent by both signing Grantee's standard, recordable use agreement. Grantor retains, for its benefit, the right to maintain, use and otherwise landscape the Easement Area for its own purposes; provided, however, that all such purposes and uses do not interfere with Grantee's rights herein and are in all respects consistent with the Grantee's rights herein, Grantee's electrical practices, and the National Electrical Safety Code.

This Grant of Easement is not subject to the Franchise Agreement between Grantor and Grantee and, in relation to Grantor, Grantee is deemed to have prior rights in the Easement Area.

GRANTOR:

{insert Grantor's legal name}

By: _____

Title:

STATE OF _____)

COUNTY OF _____)

This instrument was acknowledged before me on _____, _____ by
_____ as _____ of
_____.

Signature of Notarial Officer

Seal Area →

APN:

RW#

Project #

Project Name:

Reference Document:

GOE

Exhibit A

{insert legal description for and drawing of Easement Area}

APN:
RW#
Project. #
Project Name:
Reference Document:
GOE

SUBSTRUCTURE INSTALLATION AGREEMENT

Exhibit E

Insurance Coverages

1. Types of Insurance Required. In accordance with the "Insurance" Section of the Agreement, Applicant must procure and maintain in effect and provide, and cause its contractors and subcontractors who are performing work on the Substructure Installation to procure and maintain in effect the following (required limits can be met by use of primary, underlying, and umbrella/excess combinations):
 - (A) Workers' Compensation and Employer's Liability. Workers' compensation insurance in the form and manner required by the State of Nevada. Employer's liability insurance with the following limits: (1) one million dollars (\$1,000,000.00) per each accident; (2) one million dollars (\$1,000,000.00) per each employee disease; and (3) one million dollars (\$1,000,000.00) in the annual aggregate per each occupational disease.
 - (B) Commercial General Liability Insurance. Comprehensive general liability providing bodily injury, property damage, personal injury/advertising injury, premises/operations, and products/completed operations coverage with a per occurrence limit of not less than two million dollars (\$2,000,000.00) and an aggregate limit of not less than two million dollars (\$2,000,000.00).
 - (C) Automobile Liability Insurance. Comprehensive automobile liability with a combined single limit of one million dollars (\$1,000,000.00) for each person and one million dollars (\$1,000,000.00) for each occurrence.
 - (D) Excess or Umbrella Liability Insurance. Excess or umbrella liability with a combined single limit of not less than three million dollars (\$3,000,000.00) per occurrence. Except with respect to the workers' compensation insurance, these limits apply in excess of each of the above-mentioned policies.
2. Insurer and Policy Requirements. Each contract of insurance must be with an insurer approved to do business in the State of Nevada, is A-Rated or better by A.M. Best Company and must include the following provisions or endorsements:
 - (A) Additional Insured. Naming Utility, its directors, officers, and employees as additional insureds on the general liability, automobile liability insurance policies and excess/umbrella liability insurance.
 - (B) Primary Insurance. Stating that the insurance is primary insurance with respect to the interest of Utility and that any insurance maintained by Utility is excess and not contributory insurance.

SUBSTRUCTURE INSTALLATION AGREEMENT

- (C) Subrogation Waivers. Providing Utility with waivers of subrogation on all coverages.
 - (D) Severability and Cross Liability. Providing for severability of interest and providing cross liability coverage in the general liability, automobile liability insurance policies and excess/umbrella liability insurance.
 - (E) Notice Requirement. Providing that Utility is entitled to 30-days prior written notice before cancellation of the coverage provided above.
- 3. Notice Requirement. Applicant must provide Utility with 30-days prior written notice before the termination, expiration, or alteration of the coverage provided above.
 - 4. Deductible and Retention Limits. Deductible or retention amounts under the policies described above must not exceed 5% of the per occurrence coverage limits, without the express written consent of Utility.
 - 5. Certificate of Insurance. Applicant must provide Utility with certificates of insurance, naming Utility as additional insured, evidencing the coverage required above including additional insured endorsement numbers before Applicant, its contractors or subcontractors commence any work on the Substructure Installation. Applicant must provide Utility with a current copy of the certificate of insurance evidencing the coverage set forth above.

SUBSTRUCTURE INSTALLATION AGREEMENT

Exhibit F

Diagram of Conduit Systems Buffer

Utility Contract No: 10-00212
CLV City Hall Project
(rev. 4/2010)
Draft/Subject to Further Modification by NV Energy

