

**COLORADO RIVER COMMISSION OF NEVADA  
AGENDA ITEM A  
FOR MEETING OF APRIL 14, 2020**

**SUBJECT:**

Conformance to Open Meeting Law.

**RELATED TO AGENDA ITEM:**

None.

**RECOMMENDATION OR RECOMMENDED MOTION:**

None.

**FISCAL IMPACT:**

None.

**STAFF COMMENTS AND BACKGROUND:**

Announcement of actions taken to conform to the Open Meeting Law will be reported at the meeting.

**COLORADO RIVER COMMISSION OF NEVADA  
AGENDA ITEM B  
FOR MEETING OF APRIL 14, 2020**

**SUBJECT:**

Comments from the public. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken.)

**RELATED TO AGENDA ITEM:**

None.

**RECOMMENDATION OR RECOMMENDED MOTION:**

None.

**FISCAL IMPACT:**

None.

**STAFF COMMENTS AND BACKGROUND:**

**COLORADO RIVER COMMISSION OF NEVADA  
AGENDA ITEM C  
FOR MEETING OF APRIL 14, 2020**

**SUBJECT:**

*For Possible Action:* Approval of minutes of the February 11, 2020 meeting.

**RELATED TO AGENDA ITEM:**

None.

**RECOMMENDATION OR RECOMMENDED MOTION:**

Staff recommends the Commission approve the minutes of the February 11, 2020 meeting.

**FISCAL IMPACT:**

None.

**STAFF COMMENTS AND BACKGROUND:**

The minutes of the February 11, 2020 meeting is enclosed for your review.

The Colorado River Commission of Nevada (Commission) meeting was held at 1:30 p.m. on Tuesday, February 11, 2020 at the Grant Sawyer State Office Building, 555 East Washington Avenue, Room 4412, Las Vegas, Nevada.

### **COMMISSIONERS IN ATTENDANCE**

Chairwoman  
Vice Chairwoman  
Commissioner  
Commissioner  
Commissioner  
Commissioner  
Commissioner

Puoy K. Premsrirut  
Kara J. Kelley  
Marilyn Kirkpatrick  
Dan H. Stewart  
Cody T. Winterton  
James B. Gibson  
Allen J. Puliz

### **DEPUTY ATTORNEY GENERAL**

Special Counsel, Attorney General

Christine Guerici

### **COMMISSION STAFF IN ATTENDANCE**

Executive Director  
Chief of Finance and Administration  
Assistant Director, Hydropower  
Natural Resource Analyst  
Natural Resource Analyst  
Senior Energy Accountant  
Senior Energy Accountant  
Senior Energy Accountant  
Office Manager  
Administrative Assistant IV

Eric Witkoski  
Douglas N. Beatty  
Gail Bates  
Peggy Roefer  
WarrenTurkett Ph.D.  
Gail L. Benton  
Stephanie Salleroli  
Richard Sanders  
Gina L. Goodman  
Kira Bakke

### **OTHERS PRESENT; REPRESENTING**

Clark County Water Reclamation District  
College of Southern Nevada  
Eide Bailly LLP  
Eide Bailly LLP  
NV Energy  
Overton Power District No. 5  
Overton Power District No. 5

David Stoff  
Tina Dobbs  
Tamara Miramontes  
Chris Whetman  
Michael Hulin  
MeLisa Garcia  
Randall Ozaki



**COLORADO RIVER COMMISSION  
OF NEVADA  
MEETING OF FEBRUARY 11, 2020**

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The Colorado River Commission of Nevada (Commission) meeting was called to order by Chairwoman Premisirut at 1:30 pm followed by the pledge of allegiance.

**A. Conformance to Open Meeting Law.**

Executive Director Eric Witkoski confirmed that the meeting was posted in compliance with the Open Meeting Law.

**B. Comments from the public. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken.)**

Chairwoman Premisirut asked if there were any comments from the public.

There were none.

**C. For Possible Action: Approval of minutes of the December 10, 2019 meeting.**

Commissioner Kirkpatrick moved for approval of the minutes. The motion was seconded by Commissioner Stewart and approved by a unanimous vote.

**D. For Possible Action: Selection of Vice Chair.**

NRS 538.111 provides that "At the first meeting of the Commission in each calendar year, the Commission shall select the Vice Chair for the ensuing calendar year."

Commissioner Kirkpatrick moved to retain Commissioner Kara J. Kelley as the Vice Chairwoman for the Commission. The motion was seconded by Commissioner Puliz and approved by unanimous vote.

**E. For Possible Action: Presentation of the Commission's Comprehensive Annual Financial Report (CAFR) for the Fiscal Year Ended June 30, 2019.**

Chief of Finance and Administration Douglas N. Beatty introduced the CAFR for Fiscal Year 2019 and explained that on December 10, following the regular Commission meeting the Financial and Audit Subcommittee (Subcommittee) met to review and discuss the draft documents that would become the final CAFR which the Commission had before them at this meeting.

Mr. Beatty then detailed the various components of the CAFR that were discussed at the Subcommittee meeting and explained that these components, now finalized, are included in the single CAFR document. The Required Communications Letter, which is not in the CAFR remains a separate document. The CAFR and Required Communications Letter provided at this meeting includes all changes and

Communications Letter provided at this meeting includes all changes and clarifications as directed by the Subcommittee, which were not material from the draft documents.

Mr. Beatty reported that the audit and all documents were completed in time to provide the necessary information to the State Controller's Office for the completion of the State's CAFR, and in time to meet the Commission's deadline for CAFR review.

Mr. Beatty then explained that there was one entry that related to fiscal 2018 (the prior year) that required a prior period adjustment. That entry is detailed in the financial statement footnotes on page 42.

Vice Chairwoman Kelley asked Mr. Beatty to explain how a prior-period adjustment, such as the one detailed in the report, would normally be handled.

Mr. Beatty explained that the item in question would normally have been recorded in 2018, but because it was missed in that year, it is recorded as if it had been done in the previous year, thus requiring an adjustment to the prior year's ending balance and a corresponding adjustment to the current year's beginning balance.

Mr. Beatty then explained that the audit went much more smooth than in past years and this was largely due to early discussions with the auditors regarding the year end adjustments demonstrating compliance with the "no profit" requirements of the Commission's contracts. These adjustments had been problematic in the past; but this year as completed based on direction from the auditors were done correctly and required no further review.

This report includes one finding that is worded similarly to that of the prior year, but the underlying reason for the finding is different for FY 2019 in that it primarily has to do with holdover transactions from FY 2018. These items are detailed in the Required Communications Letter and are not included in the CAFR document.

Mr. Beatty introduced Senior Manager Chris Whetman of Eide Bailly, who explained the auditor's reports within the CAFR.

Chairwoman Premsrirut asked Mr. Whetman to explain their recommendation to Staff to periodically assess risk regarding the issue of closing out the financial statements and any errors that may occur there.

Mr. Whetman stated that this comment on the part of Eide Bailly was for Staff to pre-emptively examine items that have caused errors in the past, as well as any items that require special clarification, before the books are closed for the fiscal year. The Commission's Staff has embraced these recommendations.

Mr. Beatty added that Staff has changed the manner in which certain transactions, particularly those that are notably complex, have been recorded in order to streamline accounting procedures and prevent future errors.

Vice Chairwoman Kelley asked Mr. Whetman if the material weakness noted in the audit report might predict future errors on the part of Staff.

Mr. Whetman answered that Eide Bailly believes Staff has fully embraced all recommendations and has made changes to their procedures that will likely prevent errors in the future.

Commissioner Kirkpatrick thanked Staff and Eide Bailly for their efforts on this issue and stated that the Commission was encouraged by Staff's changes to procedures, and that though a material weakness was unfortunately found, Staff has been working diligently to both explain the weakness and prevent them from occurring in the future.

Chairwoman Premsrirut asked if there were any further questions or comments from the Commission. Hearing none, she thanked Staff and Eide Bailly for their presentation and hard work.

**Vice Chairwoman Kelley moved to accept the presentation of the CAFR for fiscal year ended June 30, 2019. The motion was seconded by Commissioner Winterton and approved by unanimous vote.**

**F. For Information Only: Status update on Right of Access Agreements between the Commission and each of its Contractors at the Black Mountain Industrial (BMI) Complex.**

Mr. Eric Witkoski gave an update on the Right of Access Agreements between the Commission and each of its Contractors at the BMI Complex. Staff was making progress on the Agreements and working with each customer.

Chairwoman Premsrirut stated as a reminder that these Agreements were being negotiated to allow the Commission to enforce any non-payment on the part of customers.

Mr. Witkoski affirmed that this summation was correct.

**G. For Information Only: Update on pending legal matters, including Federal Energy Regulatory Commission or Public Utilities Commission of Nevada filings.**

Special Counsel Christine Guerri presented an update on pending legal matters involving the Commission.

First, counsel for all Basin States (with the exception of New Mexico) plan to file a Joint Motion for Intervention by the end of February in the *Save the Colorado River et. al. vs. U.S. Department of the Interior* case. New Mexico plans to file as an Amicus, but declined to join the litigation as a party with the other six Basin States.

Second, the CRCNV has intervened in two related matters before the Federal Energy Regulatory Commission (FERC.) Pumped Hydro Storage LLC has filed two Applications for Preliminary Permits to build hydro facilities on Navajo land. The Little Colorado River Project and the Salt Trail Canyon Projects are seeking to build dams and other structures.

The location of these projects near the confluence of the Little Colorado River and the Colorado River is problematic. This area supports the largest remaining population of the humpback chub in the world. The Little Colorado River is the only known spawning population of the endangered humpback chub in the Grand Canyon.

Numerous other entities have also intervened or commented including several Native American tribes, the Department of the Interior and Arizona Fish and Game with the majority expressing concerns over the projects' locations due to potential adverse impacts to Native American sacred places, impacts to the Chub, and impacts to water flows.

Third, the CRCNV is an intervener in *Navajo Nation vs. U.S. Department of the Interior*, which is currently at the Ninth Circuit Court. The Navajo Nation's opening brief is due by February 26, 2020, the Department of the Interior's is due 45 days later, and then interveners (such as the CRCNV and other Basin States) is due shortly after this.

Chairwoman Premisrirt asked Ms. Guerri to circulate a summary or list of comments for the FERC projects, and to keep the Commission apprised of any updates on the *Navajo Nation vs. Department of the Interior* case as they develop.

Ms. Guerri agreed, stating that staff had developed (in conjunction with Natural Resource Analyst Peggy Roefer) a spreadsheet detailing the entities involved in the FERC projects and their public comments.

**H. For Information Only: Status update from Staff on the hydrological conditions, drought, and climate of the Colorado River Basin, Nevada's consumptive use of Colorado River water, the drought contingency plan, impacts on hydropower generation, electrical construction activities and other developments on the Colorado River.**

Dr. Warren Turkett, Natural Resource Analyst, gave a status update on the hydrological conditions, drought, and climate of the Colorado River Basin, Nevada's consumptive use of Colorado River water, and other developments on the Colorado River.

- Summary of Lake Powell, Lake Mead, and Nevada Water Supply
- Precipitation and Temperature
- Upper Basin Snowpack Accumulation
- Water Use in Southern Nevada
- Unregulated Inflow, Current and Projected Reservoir Status

A copy of the report is attached and made a part of the minutes. (See Attachment A.)

**I. Comments from the public. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken.)**

Chairwoman Premsrirut asked if there were any other comments or questions from the from the public. There were none.

**J. Comments and questions from the Commission members.**

Chairwoman Premsrirut asked if there were any other comments or questions from the commission members. There were none.

**K. Selection of the next possible meeting date.**

The next meeting is tentatively scheduled for 1:30 p.m. on Tuesday, March 10, 2020 at the Grant Sawyer State Office Building, 555 East Washington Avenue, Room 4412, Las Vegas, Nevada.

**L. Adjournment.**

The meeting was adjourned at 2:06 pm.

\_\_\_\_\_  
Eric Witkoski, Executive Director

APPROVED:

\_\_\_\_\_  
Puoy K. Premsrirut, Chairwoman

**COLORADO RIVER COMMISSION OF NEVADA**  
**AGENDA ITEM D**  
**FOR MEETING OF APRIL 14, 2020**

**SUBJECT:**

*For Possible Action:* Consideration of and possible action to approve an Amendment No. 6 to Contract for Services of Independent Contractor among Fennemore Craig, P.C., the Office of the Attorney General, and the Colorado River Commission of Nevada (Commission) for legal services in the United States Court of Appeals for the 9<sup>th</sup> Circuit.

**RELATED TO AGENDA ITEM:**

None.

**RECOMMENDATION OR RECOMMENDED MOTION:**

Staff recommends the Commission approve an Amendment No. 6 to Contract for Services of Independent Contractor among Fennemore Craig, P.C., primary attorney Lauren Caster, Esq.; the Office of the Attorney General; and the Commission for legal services; and authorize the Executive Director to sign it on behalf of the Commission.

**FISCAL IMPACT:**

Amending the contract as recommended will extend the term to June 30, 2022, with expenditures occurring in FY 2021-2022. No additional funding is requested for the extended term.

**STAFF COMMENTS AND BACKGROUND:**

The Commission is presently engaged in litigation with The Navajo Nation as to their claims to main stem Lower Basin Colorado River water. The pending lawsuit was initiated in 2003, and challenged current Colorado River operations, including the Guidelines, Federal banking regulations (which permit us to bank Nevada's water in Arizona and California) and potentially the agreements and associated river operations relating to Minute 319 with Mexico. In addition, this significant litigation threatens the stability of the Law of the River that the Seven Basin States rely on, and may ultimately result in a water adjudication in the District Court or the United States Supreme Court. Mr. Caster has undertaken representation of the Sovereign State of Nevada, and with the Attorney General's consent, is serving as a Special Deputy Attorney General. He also represents the Commission and the Southern Nevada Water Authority (SNWA).

On March 12, 2013, the Commission approved a contract between the Commission and Fennemore Craig, P.C., primary attorney Lauren Caster, Esq., to engage his services to provide legal representation in *The Navajo Nation v. U.S.*, CV-03-00507 PCT PGR, in the United States District Court, For the District of Arizona, and related matters. Prior to contract approval by the Board of Examiners, the Attorney General met with the Commission's Executive Director and Senior Deputy Attorney General Jennifer Crandell and requested that she be made a party to the contract, and that Mr. Caster's appointment as a special deputy attorney general be specifically written into the contract. The Amendment to the Contract reflects these changes. The Board of Examiners approved the Amendment to the Contract on June 11, 2013.

Continued on next page . . .

#### **AGENDA ITEM D- STAFF COMMENTS AND BACKGROUND (CONTINUED):**

The original contract with Fennemore Craig, P.C. had a two-year term, although the contract covered months in fiscal years 2013, 2014 and 2015. The contract had a not-to-exceed amount of \$300,000. The First Amendment to the original contract was approved January 14, 2014, which completed funding on the contract through fiscal year 2014. That amendment changed the contract amount for fiscal years 2013 and 2014 to \$239,000, and reflected approximately \$24,000 billed in fiscal year 2013, \$150,000 billed in fiscal year 2014, and approved additional funds of \$65,000 for legal fees and costs to cover the remaining legal work on the Motion to Dismiss and oral argument, only, through fiscal year 2014 (June 30, 2014).

The \$65,000 increase in funding to the first amendment was due to the fact that the majority of the work anticipated under the contract (preparation of a Motion to Dismiss) occurred shortly after the beginning of the first full fiscal year (July 2013-14). This work included serving as coordinating counsel for the Defendant Intervenors with the Department of Justice, coordinating defense strategy among the numerous Defendant Intervenors, and the research and preparation of a potentially dispositive motion for *The Navajo Nation v. United States Department of Interior, et. al.*, Case No. CV-03-00507-PCT-GMS.

A second amendment to the contract provided for funding for legal fees and disbursements for fiscal year 2015, in the amount of \$20,000, to cover litigation costs until such time as the District Court ruled on pending dispositive motions. Work under this amendment included monitoring the case, legal research to support supplemental authority filings, coordinating with co-defendants, reviewing the Court's decision, making initial strategy recommendations, and preparing any initial filing that may be required to move the case forward. The total not-to-exceed amount for the two-year term of the contract was amended to \$259,000. It was anticipated by the Commission that once the Court ruled, the Contract would require further amendment to provide funds to continue the case.

On July 22, 2014, the District Court granted the Federal Defendants Motion to Dismiss without prejudice, and terminated the case. This made the case appealable to the Ninth Circuit Court of Appeals. Subsequently on August 18, 2014, the Navajo Plaintiffs filed a Motion For Specific Relief Pursuant to Rule 60(b)(6) seeking leave to set aside the judgment and amend the Complaint. Based on this new motion, and the Navajo potential appeal to the Ninth Circuit, Fennemore Craig proposed a budget to cover three possible courses of action or any combination of elements from one or more alternatives: 1) if the District Court granted the Navajo request for an amendment and the Complaint is then amended, resulting in the necessity to prepare new Motions to Dismiss in the District Court; 2) the District Court granted the Navajo motion in part, certifies the dismissal of one or more claims for immediate appeal to the Ninth Circuit, while simultaneously the Complaint is amended in part and litigation continues in the District Court; or 3) if the District Court denied the Navajo motion and the Navajo file an appeal in the Ninth Circuit, requiring Fennemore Craig, P.C. to prepare an appellate brief.

The Navajo Nation appealed to the 9<sup>th</sup> Circuit Court, and the case was fully briefed before that court. Oral argument was heard on November 13, 2017. A decision of the Court was issued November 6, 2017, with the decision published on December 4, 2017.

Continued on next page . . .



**AGENDA ITEM D- STAFF COMMENTS AND BACKGROUND (CONTINUED) :**

**STAFF COMMENTS AND BACKGROUND (CONTINUED):**

The Ninth Circuit directed the District Court “to consider fully the Nation’s breach of trust claim in the first instance, after entertaining any request to amend the claim more fully to flesh it out.” *Navajo Nation v. Department of Interior*, 876 F.3d at 1173. On remand, the District Court authorized the Nation to file a motion for leave to amend its complaint by April 13, 2018. Responses to that motion are due by May 29, 2018. The Nation may file a reply in support of its motion by June 19, 2018. Civil Minutes (filed Feb. 13, 2018). Rule 15.1, Local Rules of Civil Procedure (D. Ariz.), requires that the Nation attach the proposed third amended complaint to its motion, indicating by redlining how it differs from the Second Amended Complaint.

On August 23, 2019, the Arizona District Court issued its Order denying the Navajo’s request to amend its complaint and terminated the case. *Navajo Nation v. Department of Interior*, 2019 Westlaw 3997370 (D.Az. 2019). The District Court specifically addressed the Navajo’s trust claims and stated: “Since none of these substantive sources of law create the trust duties the Nation seeks to enforce, and the Nation “cannot allege a common law cause of action for breach of trust that is wholly separate from any statutorily granted right”, its breach of trust claim must fail, and amendment would be futile (citation omitted)”. The case has now been appealed to the 9th Circuit Court of Appeals on the trust issue and on February 26, 2020, the Navajo filed their opening brief.

It is anticipated that the Commission, as an intervener in this action, will timely file an Answering Brief and participate in litigation related meetings and oral arguments. This Contract Amendment #6 is to amend the contract to extend its term to allow Fennemore to continue to defend the case on behalf of the State of Nevada, the Colorado River Commission of Nevada, and the Southern Nevada Water Authority.

## DISCLOSURE OF OWNERSHIP/PRINCIPALS

<b>Corporate/Business Entity Name:</b> Fennemore Craig, P.C.	
<b>"Doing Business As" (if applicable):</b>	
<b>Street Address:</b> 2394 E. Camelback Rd., Ste. 600	<b>Website:</b> www.FennemoreCraig.com
<b>City, State and Zip Code:</b> Phoenix, AZ 85016-3429	<b>POC Name and Email:</b> Lauren J. Caster, lcaster@fclaw.com
<b>Telephone Number:</b> (602) 916-5367	<b>Fax Number:</b> (602) 916-5567
<b>Local Street Address:</b> 300 S. 4th St., Ste. 1400	<b>Website:</b> www.FennemoreCraig.com
<b>City, State and Zip Code:</b> Las Vegas, NV 89101-6021	<b>Local Fax Number:</b> (702) 692-8099
<b>Local Telephone Number:</b> (702) 692-8012	<b>Local POC Name and Email:</b> Mark Hawkins, mhawkins@fclaw.com

All entities, with the exception of publicly-traded and non-profit organizations, must list the names of individuals holding more than five percent (5%) ownership or financial interest in the business entity appearing before the CRCNV.

Publicly-traded entities and non-profit organizations shall list all Corporate Officers and Directors in lieu of disclosing the names of individuals with ownership or financial interest.

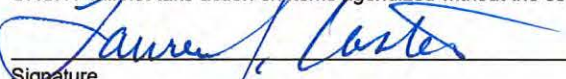
Entities include all business associations organized under or governed by Title 7 of the Nevada Revised Statutes, including but not limited to private corporations, close corporations, foreign corporations, limited liability companies, partnerships, limited partnerships, and professional corporations.

Full Name	Title	% Owned <small>(Not required for Publicly Traded Corporations/Non-profit organizations)</small>
No Fennemore Craig shareholder owns more than 5% of Fennemore Craig stock. A list of shareholders and officers of Fennemore Craig is attached.		
_____	_____	_____
_____	_____	_____
_____	_____	_____

**This section is not required for publicly-traded corporations.**

1. Are any individual members, partners, owners or principals, involved in the business entity, a CRCNV full-time employee(s), or appointed/elected official(s)?  
☒ Yes ☐ No (If yes, please note that CRCNV employee(s), or appointed/elected official(s) may not perform any work on professional service contracts, or other contracts, which are not subject to competitive bid.)  
 No Fennemore Craig shareholder is a full-time CRC employee. See p. 2 for officials.
2. Do any individual members, partners, owners or principals have a spouse, registered domestic partner, child, parent, in-law or brother/sister, half-brother/half-sister, grandchild, grandparent, related to a CRCNV full-time employee(s), or appointed/elected official(s)?  
☒ Yes ☐ No (If yes, please complete the Disclosure of Relationship form on Page 2. If no, please print N/A on Page 2.)

I certify under penalty of perjury, that all of the information provided herein is current, complete and accurate. I also understand that the CRCNV will not take action on items agendized without the completed disclosure form.

 _____ Signature	Lauren J. Caster _____ Print Name
Vice President, Director & Shareholder, Fennemore Craig, P.C. _____ Title	April 3, 2020 _____ Date

## DISCLOSURE OF RELATIONSHIP

List any disclosures below:

(Mark N/A, if not applicable.)

NAME OF BUSINESS OWNER/PRINCIPAL	NAME OF CRCNV EMPLOYEE/OFFICIAL AND JOB TITLE	RELATIONSHIP TO CRCNV EMPLOYEE/OFFICIAL
Ann Morgan	Judge Bruce T. Beesley, U.S. Bankruptcy Court, District of Nevada	Spouse
Richard H. Bryan	Member, Nevada Commission on Nuclear Projects	N/A
Brian Catlett (non-attorney employee)	Member, Board of Nevada Volunteers	N/A
Ann Morgan	Trustee, University of Nevada Foundation (appointed by Board of Regents of Nevada System of Higher Education)	N/A
Richard H. Bryan	Member, Commission for the Las Vegas Centennial	N/A

"Consanguinity" is a relationship by blood. "Affinity" is a relationship by marriage.

"To the second degree of consanguinity" applies to the candidate's first and second degree of blood relatives as follows:

- Spouse – Registered Domestic Partners – Children – Parents – In-laws (first degree)
- Brothers/Sisters – Half-Brothers/Half-Sisters – Grandchildren – Grandparents – In-laws (second degree)

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**For CRCNV Use Only:**

If any Disclosure of Relationship is noted above, please complete the following:

☐ Yes ☐ No Is the CRCNV employee(s) noted above involved in the contracting/selection process for this particular agenda item?

☐ Yes ☐ No Is the CRCNV employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name (Authorized Department Representative)

## DISCLOSURE OF RELATIONSHIP

***For CRCNV Use Only:***

If any Disclosure of Relationship is noted above, please complete the following:

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☐ Yes ☐ No Is the CRCNV employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name (Authorized Department Representative)

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Signature

\_\_\_\_\_  
Print Name (Authorized Department Representative)

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☐ Yes ☐ No Is the CRCNV employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name (Authorized Department Representative)

## **AMENDMENT #6 TO CONTRACT**

Between the State of Nevada acting by and through Its

**Colorado River Commission of Nevada**

555 East Washington Avenue, Suite 3100

Las Vegas, NV 89101

Contact: Eric Witkoski

Phone: (702) 486-2670

Email: ewitkoski@crc.nv.gov

and

**Office of the Attorney General**

555 East Washington Avenue, Suite 3900

Las Vegas, NV 89101

Contact: Christine Guerci-Nyhus

Phone: (702) 486-2670

Email: cguerci@crc.nv.gov

and

**Fennemore Craig, P.C.**

2394 East Camelback Road, Suite 600

Phoenix, Arizona 85016-3429

Contact: Lauren J. Caster

Telephone: (602) 916-5367

Email: lcaster@fclaw.com

1. **AMENDMENTS.** For and in consideration of mutual promises and/or other valuable consideration, all provisions of the original (dated June 11, 2013) and amended contracts #2, #3, #4 and #5, attached hereto as Exhibit A, remain in full force and effect with the exception of the following:

A. On June 11, 2013, a 24-month contract (FY 2013-2015) between the Commission, the Attorney General and Fennemore Craig, P.C. was approved to retain Fennemore Craig, P.C. to provide legal representation for the State of Nevada and the Commission in the Navajo Nation v. U.S., CV-03- 00507 PCT GMS, in the United States District Court, District of Arizona and related matters. The Contract expired on June 10, 2015. The original contract with Fennemore Craig, P.C. was for \$150,000 per fiscal year, for the two-year term of the contract, with a not-to-exceed amount of \$300,000.

B. Most of the initial work on the case, specifically a Motion to Dismiss, occurred in



fiscal year 2014, ultimately exceeding the "not-to-exceed" amount of \$150,000 in the first full fiscal year. The First Amendment modified the amount of the two-year contract, to a not-to-exceed amount of \$239,000, through fiscal year 2014. This \$239,000 reflected approximately \$24,000 billed in fiscal year 2013, approximately \$150,000 billed in fiscal year 2014, and increased fiscal year 2014 funding by \$65,000, for a total not-to-exceed amount of \$239,000 through June 30, 2014. The \$65,000 amount was for fees and costs to cover the remaining legal work on the reply in support of Intervenor State of Nevada's Motion to Dismiss and oral argument.

- C. To cover litigation costs until the District Court ruled on pending dispositive motions, including monitoring the case, legal research to support supplemental authority filings, coordinating with co-defendants, reviewing the Court's decision, making initial strategy recommendations, and preparing any initial filing that may be required to move the case forward, the Contract was amended (Amendment #2 to Contract) to provide an amount of \$20,000 for legal fees and costs for fiscal year 2015 to the end of the term of the Contract (July 1, 2014 - June 30, 2015). The total not-to-exceed amount for the two-year term of the contract was amended to \$259,000. It was anticipated by the Commission that once the Court ruled, the Contract would require further amendment to provide funds to continue the case.
- D. On July 22, 2014, the District Court granted the Federal Defendants' Motion to Dismiss without prejudice and terminated the case. The case was then appealed to the 9th Circuit Court of Appeals. It was fully briefed by the parties and by Fennemore on behalf of the State, the Commission and the Southern Nevada Water Authority (SNWA). The oral argument before the 9th Circuit was held on February 14, 2017.
- E. A decision by the 9th Circuit Court of Appeals was issued affirming in part, and reversing in part, the District Court's Order. *Navajo Nation v. Department of Interior*, 876 F.3d 1144 (9th Cir. 2017). The 9th Circuit affirmed the lower court's dismissal of all claims challenging the water banking regulations, the Surplus and the 2007 Shortage Guidelines. The 9th Circuit remanded only one claim to the Arizona District Court, that of the Breach of Trust by the Federal Government. The remedy sought by the Navajo remains uncertain, but it is currently seeking a quantification of lower mainstream Colorado River water.
- F. The 9th Circuit directed the District Court "to consider fully the Nation's breach of trust claim in the first instance, after entertaining any request to amend the claim more fully to flesh it out." *Navajo Nation v. Department of Interior*, 876 F.3d at 1173.
- G. On August 23, 2019, the Arizona District Court issued its Order denying the Navajo's request to amend its complaint and terminate the case. *Navajo Nation v. Department of Interior*, 2019 Westlaw 3997370 (D.Az. 2019). The District Court specifically addressed the Navajo's trust claims and stated: "Since none of these substantive sources of law create the trust duties the Nation seeks to enforce, and the Nation 'cannot allege a common law cause of action for breach of trust that is wholly separate from any statutorily granted right', its breach of trust claim must fail, and

amendment would be futile (citation omitted)".

- H. The case has now been appealed to the 9th Circuit Court of Appeals on the trust issue and on February 26, 2020, the Navajo filed their opening brief.
- I. It is anticipated that the State, the Commission and SNWA, as interveners in this action, will timely file an Answering Brief and participate in litigation related meetings and oral arguments. This Contract Amendment #6 is to amend the contract to extend its term to allow Fennemore to continue to defend the case on behalf of the State of Nevada, the Colorado River Commission of Nevada, and the Southern Nevada Water Authority.

**Current Contract Language from Amendment #5:**

3. CONTRACT TERM. This Contract, upon approval of the Board of Examiners and any other necessary approvals, shall be effective through June 30, 2020, unless sooner terminated by either party as specified in paragraph (10).

**Amended Contract Language for Amendment #6**

3. CONTRACT TERM. This Contract, upon approval of the Board of Examiners and any other necessary approvals, shall be effective through June 30, 2022, unless sooner terminated by either party as specified in paragraph (10).

**2. INCORPORATED DOCUMENTS.** Exhibit A (Original Contract and Amendments) is attached hereto, incorporated by reference herein and made a part of this amended contract.

**3. REQUIRED APPROVAL.** This amendment to the original contract shall not become effective until and unless approved by the Nevada State Board of Examiners.

IN WITNESS WHEREOF, the parties hereto have caused this amendment #6 to the original contract to be signed and intend to be legally bound thereby.

NEVADA ATTORNEY GENERAL



AARON D. FORD

Date

COLORADO RIVER COMMISSION

ERIC P. WITKOSKI, Executive Director

Date

FENNEMORE CRAIG, P.C.

LAUREN J. CASTER

Date

Approved as to form:

CHRISTINE GUERCI-NYHUS  
Special Counsel Attorney General

Date

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2020:  
STATE BOARD OF EXAMINERS

\_\_\_\_\_  
Clerk, Board of Examiners



IN WITNESS WHEREOF, the parties hereto have caused this amendment #6 to the original contract to be signed and intend to be legally bound thereby.

NEVADA ATTORNEY GENERAL

\_\_\_\_\_  
Date

\_\_\_\_\_  
AARON D. FORD

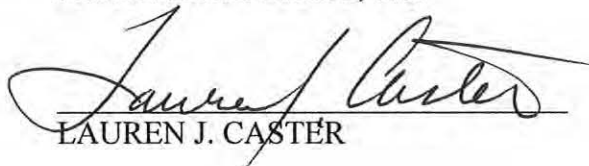
COLORADO RIVER COMMISSION

\_\_\_\_\_  
Date

\_\_\_\_\_  
ERIC P. WITKOSKI, Executive Director

FENNEMORE CRAIG, P.C.

March 16, 2020  
Date

  
LAUREN J. CASTER

Approved as to form:

\_\_\_\_\_  
CHRISTINE GUERCI-NYHUS  
Special Counsel Attorney General

\_\_\_\_\_  
Date

Approved this \_\_\_\_ day of \_\_\_\_\_, 2020:

STATE BOARD OF EXAMINERS

\_\_\_\_\_  
Clerk, Board of Examiners

EXHIBIT A

**AMENDMENT # 5 TO CONTRACT**

**FOR SERVICES OF INDEPENDENT CONTRACTOR**

## **AMENDMENT #5 TO CONTRACT**

Between the State of Nevada  
Acting By and Through Its

**Colorado River Commission of Nevada**  
**555 East Washington Avenue, Suite 3100**  
**Las Vegas, NV 89101**  
**Contact: Jayne Harkins**  
**Phone: (702) 486-2670; Fax: (702) 486-2695**  
**Email: [jharkins@crc.nv.gov](mailto:jharkins@crc.nv.gov)**

and

**Office of the Attorney General**  
**555 East Washington Avenue, Suite 3900**  
**Las Vegas, NV 89101**  
**Contact: Jennifer Crandell**  
**Phone: (702) 486-2670 Fax: (702) 486-2695**  
**Email: [jcrandell@crc.nv.gov](mailto:jcrandell@crc.nv.gov)**

and

**Fennemore Craig, P.C.**  
**2394 East Camelback Road, Suite 600**  
**Phoenix, Arizona 85016-3429**  
**Contact: Lauren J. Caster**  
**Telephone: (602) 916-5367 Fax: (602) 916-5567**  
**Email: [lcaster@fclaw.com](mailto:lcaster@fclaw.com)**

1. AMENDMENTS. For and in consideration of mutual promises and/or other valuable consideration, all provisions of the original (dated June 11, 2013) and amended contracts #2, #3 and #4 attached hereto as Exhibit A, remain in full force and effect with the exception of the following:
  - A. On June 11, 2013, a 24-month contract (in FY 2013-2015) between the Commission, the Attorney General and Fennemore Craig, P.C. was approved to retain Fennemore Craig, P.C. to provide legal representation in *The Navajo Nation v. U.S.*, CV-03-00507 PCT GMS, in the United States District Court, For the District of Arizona and related matters. The Contract was set to expire June 10, 2015. The original contract with Fennemore Craig, P.C. was for \$150,000 per fiscal year, for the two-year term of the contract, with a not-to-exceed amount of \$300,000.

- B. Most of the initial work on the case, vis-à-vis a Motion to Dismiss, occurred in fiscal year 2014, ultimately exceeding the “not-to-exceed” amount of \$150,000 in the first full fiscal year. The First Amendment modified the amount of the two-year contract, to a not-to-exceed amount of \$239,000, through fiscal year 2014. This \$239,000 reflected approximately \$24,000 billed in fiscal year 2013, approximately \$150,000 billed in fiscal year 2014, and increased fiscal year 2014 funding by \$65,000, for a total not-to-exceed amount of \$239,000 through June 30, 2014. The \$65,000 amount was for fees and costs to cover the remaining legal work on the reply in support of Intervenor State of Nevada’s Motion to Dismiss and oral argument.
- C. To cover litigation costs until the District Court ruled on pending dispositive motions, including monitoring the case, legal research to support supplemental authority filings, coordinating with co-defendants, reviewing the Court’s decision, making initial strategy recommendations, and preparing any initial filing that may be required to move the case forward, the Contract was amended (Amendment #2 to Contract) to provide an amount of \$20,000 for legal fees and costs for fiscal year 2015 to the end of the term of the Contract (July 1, 2014 - June 30, 2015). The total not-to-exceed amount for the two-year term of the contract was amended to \$259,000. It was anticipated by the Commission that once the Court ruled, the Contract would require further amendment to provide funds to continue the case.
- D. On July 22, 2014, the District Court granted the Federal Defendants’ Motion to Dismiss without prejudice, and terminated the case. The case was then appealed to the 9<sup>th</sup> Circuit Court of Appeals. It was fully briefed by the parties and by Fennemore on behalf of the CRC and the SNWA. The oral argument before the 9<sup>th</sup> Circuit was held on February 14, 2017.
- E. A decision by the 9<sup>th</sup> Circuit Court of Appeals was issued in the case of Navajo Nation v. Department of Interior, 876 F.3d 1167 (9<sup>th</sup> Cir., Dec. 04, 2017). The decision of the Court affirmed in part, and reversed in part, the District Court’s Order. The Court affirmed the lower court’s dismissal of all claims challenging the water banking regulations, the Surplus and 2007 Shortage Guidelines. The Court remanded only one claim to the Arizona District Court, that of the Breach of Trust by the Federal Government. The remedy sought by the Navajo remains uncertain, but it is currently seeking a quantification of lower main stem Colorado River water.
- F. The Ninth Circuit directed the District Court “to consider fully the Nation’s breach of trust claim in the first instance, after entertaining any request to amend the claim more fully to flesh it out.” *Navajo Nation v. Department of Interior*, 876 F.3d at 1173. Only when the Navajo Nation files its motion for leave to amend and the proposed amended complaint will the parameters of the Navajo’s case be fully understood, and whether it continues to target the Surplus Guidelines and Shortage Guidelines on the basis of the alleged breach of trust.

G. On February 13, 2018 the Arizona District Court convened a status conference of the parties. An Order was issued for a briefing schedule relating Navajo's motion to amend the complaint. On remand, the District Court authorized the Nation to file a motion for leave to amend its complaint by April 13, 2018. Responses to that motion are due by May 29, 2018. The Nation may file a reply in support of its motion by June 19, 2018. Civil Minutes (filed Feb. 13, 2018). Rule 15.1, Local Rules of Civil Procedure (D. Ariz.), requires that the Nation attach the proposed third amended complaint to its motion, indicating by redlining how it differs from the Second Amended Complaint.

H. It is anticipated that the District Court will issue an additional briefing schedule for motions to dismiss, as well as any other necessary schedule in the case, such as a schedule for discovery. This Contract Amendment #5 is to amend the contract to obtain funds to continue to defend the case on behalf of the State of Nevada, the Colorado River Commission of Nevada, and the Southern Nevada Water Authority.

**Current Contract Language From Amendment #4:**

3. CONTRACT TERM. This Contract shall be effective from the date of the Board of Examiners' approval and all other approvals are obtained (anticipated to be July 2016) to June 30, 2018, unless sooner terminated by either party as specified in paragraph (10).

**Amended Contract #5 Language:**

3. CONTRACT TERM. This Contract, upon approval of the Board of Examiners and any other necessary approvals, shall be effective through June 30, 2020, unless sooner terminated by either party as specified in paragraph (10).

**Current Contract Language From Amendment #3:**

6. CONSIDERATION. The parties agree that Contractor will provide the services specified in paragraph five (5) at the hourly rates specified in Attachment "AA" with the total and not-to-exceed Contract amount of \$519,000 for the three-year contract term. Contractor shall provide a revised Attachment AA to the Commission by December 31 of each year; and the Commission's Executive Director is authorized to approve subsequent payments to Fennemore Craig at the rates set forth in the revised Attachment AA, provided that the total amount paid is less than the maximum aggregate cost of services approved for Contractor's services by the Board of Examiners. The State does not agree to reimburse Contractor for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the result of legislative appropriation may require.



**Amended Contract #5 Language:**


6. CONSIDERATION. The parties agree that Contractor will provide the services specified in paragraph five (5) at the hourly rates specified in Attachment "AA" with the total and not-to-exceed Contract amount of \$100,000 for the amended two-year contract term. The Contractor shall charge no more than \$2500 for any possible joinder to an Opposition to a Motion to Amend, and no more than \$20,000 for any Motion to Dismiss and Reply, as approved by the Executive Director. The balance of \$77,500 will be authorized for payment to Contractor by the Executive Director, in consultation with the Attorney General, on an approved task-by-task basis. Contractor shall provide a revised Attachment AA to the Commission by December 31 of each year; and the Commission's Executive Director is authorized to approve subsequent payments to Fennemore Craig at the rates set forth in the revised Attachment AA, provided that the total amount paid is less than the maximum aggregate cost of services approved for Contractor's services by the Board of Examiners. The State does not agree to reimburse Contractor for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the result of such legislative appropriation may require.

2. INCORPORATED DOCUMENTS. Exhibit A (Original Contract and Amendments) is attached hereto, incorporated by reference herein and made a part of this amended contract.


3. REQUIRED APPROVAL. This amendment to the original contract shall not become effective until and unless approved by the Nevada State Board of Examiners.

IN WITNESS WHEREOF, the parties hereto have caused this amendment to the original contract to be signed and intend to be legally bound thereby.

3/15/18  
Date

NEVADA ATTORNEY GENERAL  
  
ADAM PAUL LAXALT

3/13/18  
Date

COLORADO RIVER COMMISSION  
  
JAYNE HARKINS, P.E, Executive Director  
For the Colorado River Commission of  
Nevada

FENNEMORE CRAIG, P.C.

March 7, 2018  
Date

Lauren J. Caster  
LAUREN J. CASTER

Approved as to form:

Approved this 5<sup>th</sup> day of  
May, 2018

Jennifer T. Crandell  
JENNIFER T. CRANDELL  
Special Counsel/Attorney General  
Date: 3/7/18

STATE BOARD OF EXAMINERS

James R. Allen  
CLERK

EXHIBIT A

**AMENDMENT # 4 TO CONTRACT**

**FOR SERVICES OF INDEPENDENT CONTRACTOR**



**AMENDMENT #4 TO CONTRACT**

Between the State of Nevada  
Acting By and Through Its

**Colorado River Commission of Nevada**  
**555 East Washington Avenue, Suite 3100**  
**Las Vegas, NV 89101**  
**Contact: Jayne Harkins**  
**Phone: (702) 486-2670; Fax: (702) 486-2695**  
**Email: [jharkins@crc.nv.gov](mailto:jharkins@crc.nv.gov)**

**and**

**Office of the Attorney General**  
**555 East Washington Avenue, Suite 3900**  
**Las Vegas, NV 89101**  
**Contact: Jennifer Crandell**  
**Phone: (702) 486-2670 Fax: (702) 486-2695**  
**Email: [jcrandell@crc.nv.gov](mailto:jcrandell@crc.nv.gov)**

**and**

**Fennemore Craig, P.C.**  
**2394 East Camelback Road, Suite 600**  
**Phoenix, Arizona 85016-3429**  
**Contact: Lauren J. Caster**  
**Telephone: (602) 916-5367 Fax: (602) 916-5567**  
**Email: [lcaster@fclaw.com](mailto:lcaster@fclaw.com)**

1. AMENDMENT S. For and in consideration of mutual promises and/or other valuable consideration, all provisions of the original (dated June 11, 2013) and amended contracts #2 and #3, attached hereto as Exhibit A, remain in full force and effect with the exception of the following:

- A. On June 11, 2013, a 24-month contract (in FY 2013-2015) between the Commission, the Attorney General and Fennemore Craig, P.C. was approved to retain Fennemore Craig, P.C. to provide legal representation in *The Navajo Nation v. U.S.*, CV-03-00507 PCT PGR, in the United States District Court, or the District of Arizona and related matters. The original Contract was set to expire June 10, 2015. The expiration date for the Contract was amended in Contract Amendment #3, and the Contract is now set to expire June 30, 2016.

- B. On Jul 22, 2014, the District Court granted the Federal Defendants' Motion to Dismiss without prejudice, and terminated the case. The Navajo appealed the case to the 9<sup>th</sup> Circuit Court of Appeals, where it has been fully briefed by the parties. The parties have requested oral argument; however no argument has been set as of this date.
- C. This Contract Amendment #4 is only to extend the term of the Contract two years, as we await Court action on this matter.

**Original Contract Language:**

3. CONTRACT TERM. This Contract shall be effective from the date of the Board of Examiners' approval and all other approvals are obtained (anticipated to be April 2013) to June 30, 2015, unless sooner terminated by either party as specified in paragraph (10).

**Amended Contract #3 Language:**

3. CONTRACT TERM. This Contract shall be effective from the date of the Board of Examiners' approval and all other approvals are obtained (anticipated to be July 2016) to June 30, 2018, unless sooner terminated by either party as specified in paragraph (10).

2. INCORPORATED DOCUMENTS. Exhibit A (Original Contract and Amendments) is attached hereto, incorporated by reference herein and made a part of this amended contract.

3. REQUIRED APPROVAL. This amendment to the original contract shall not become effective until and unless approved by the Nevada State Board of Examiners.

IN WITNESS WHEREOF, the parties hereto have caused this amendment to the original contract to be signed and intend to be legally bound thereby.


NEVADA ATTORNEY GENERAL

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
ADAM PAUL LAXALT

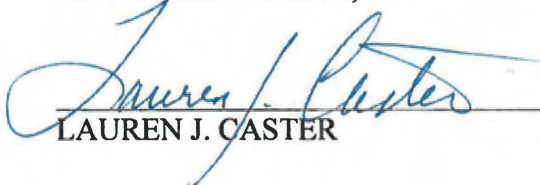
COLORADO RIVER COMMISSION

5/4/16  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
JAYNE HARKINS, P.E, Executive Director  
For the Colorado River Commission of  
Nevada


FENNEMORE CRAIG, P.C.

April 5, 2016  
\_\_\_\_\_  
Date

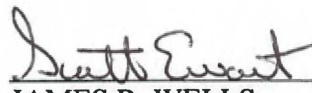
  
\_\_\_\_\_  
LAUREN J. CASTER

Approved as to form:

Approved this 24 day of  
May, 2016

  
\_\_\_\_\_  
JENNIFER T. CRANDELL  
Special Counsel Attorney General

STATE BOARD OF EXAMINERS

  
\_\_\_\_\_  
JAMES R. WELLS,  
Clerk, Board of Examiners

for James R. Wells

**EXHIBIT A**

**AMENDMENT #3 TO CONTRACT**

**FOR SERVICES OF INDEPENDENT CONTRACTOR**

## **AMENDMENT #3 TO CONTRACT**

**Between the State of Nevada  
Acting By and Through Its**

**Colorado River Commission of Nevada  
555 East Washington Avenue, Suite 3100  
Las Vegas, NV 89101  
Contact: Jayne Harkins  
Phone: (702) 486-2670; Fax: (702) 486-2695  
Email: [jharkins@crc.nv.gov](mailto:jharkins@crc.nv.gov)**

**and**

**Office of the Attorney General  
555 East Washington Avenue, Suite 3900  
Las Vegas, NV 89101  
Contact: Jennifer Crandell  
Phone: (702) 486-2670 Fax: (702) 486-2695  
Email: [jcrandell@crc.nv.gov](mailto:jcrandell@crc.nv.gov)**

**and**

**Fennemore Craig, P.C.  
2394 East Camelback Road, Suite 600  
Phoenix, Arizona 85016-3429  
Contact: Lauren J. Caster  
Telephone: (602) 916-5367 Fax: (602) 916-5567  
Email: [lcaster@fclaw.com](mailto:lcaster@fclaw.com)**

1. **AMENDMENTS.** For and in consideration of mutual promises and/or other valuable consideration, all provisions of the original and amended contract, dated June 11, 2013, attached hereto as Exhibit A, remain in full force and effect with the exception of the following:

- A. On June 11, 2013, a 24-month contract (in FY 2013-2015) between the Commission, the Attorney General and Fennemore Craig, P.C. was approved to retain Fennemore Craig, P.C. to provide legal representation in The Navajo Nation v. U.S., CV-03-00507 PCT PGR, in the United States District Court, For the District of Arizona and related matters. The Contract was set to expire June 10, 2015. The original contract with Fennemore Craig, P.C. was for \$150,000 per fiscal year, for the two-year term of the contract, with a not-to-exceed amount of \$300,000.

- B. Most of the initial work on the case, vis-à-vis a Motion to Dismiss, occurred in fiscal year 2014, ultimately exceeding the “not-to-exceed” amount of \$150,000 in the first full fiscal year. The First Amendment modified the amount of the two-year contract, to a not-to-exceed amount of \$239,000, through fiscal year 2014. This \$239,000 reflected approximately \$24,000 billed in fiscal year 2013, approximately \$150,000 billed in fiscal year 2014, and increased fiscal year 2014 funding by \$65,000, for a total not-to-exceed amount of \$239,000 through June 30, 2014. The \$65,000 amount was for fees and costs to cover the remaining legal work on the reply in support of Intervenor State of Nevada’s Motion to Dismiss and oral argument.
- C. To cover litigation costs until the District Court ruled on pending dispositive motions, including monitoring the case, legal research to support supplemental authority filings, coordinating with co-defendants, reviewing the Court’s decision, making initial strategy recommendations, and preparing any initial filing that may be required to move the case forward, the Contract was amended (Amendment #2 to Contract) to provide an amount of \$20,000 for legal fees and costs for fiscal year 2015 to the end of the term of the Contract (July 1, 2014 - June 30, 2015). The total not-to-exceed amount for the two-year term of the contract was amended to \$259,000. It was anticipated by the Commission that once the Court ruled, the Contract would require further amendment to provide funds to continue the case.
- D. On July 22, 2014, the District Court granted the Federal Defendants’ Motion to Dismiss without prejudice, and terminated the case. This makes the case appealable to the 9<sup>th</sup> Circuit Court of Appeals. Subsequently on August 18, 2014, the Navajo Plaintiffs filed a Motion For Specific Relief Pursuant to Rule 60(b)(6) seeking leave to set aside the judgment in part and amend the Complaint. Based on this new motion, and the likelihood that the Navajo will appeal to the 9<sup>th</sup> Circuit, Fennemore Craig has proposed a budget to cover three possible courses of action or any combination of elements from one or more alternatives: 1) if the District Court grants the Navajo request for an amendment and the Complaint is then amended resulting in the necessity to prepare new Motions to Dismiss in the District Court; 2) the District Court grants the Navajo motion in part certifies the dismissal of one or more claims for immediate appeal to the 9<sup>th</sup> Circuit while simultaneously the Complaint is amended in part and litigation continues in the District Court; or 3) if the District Court denies the Navajo motion and the Navajo file an appeal in the 9<sup>th</sup> Circuit, requiring Fennemore Craig to prepare an appellate brief.
- E. Based on these possible litigation tracks or possible combinations of the elements of these tracks, the Contract is amended (Amendment #3 to Contract) to provide an additional amount of \$260,000 for legal fees and costs for the balance of fiscal year 2015 through fiscal year 2016 (July 1, 2014 - June 30, 2016). The two-year Contract is extended an additional year, for a total of three-years. Total amounts authorized under the Contract for three years, with a not-to-exceed amount, is \$519,000. Funding estimates specifically include argument in the 9<sup>th</sup> Circuit Court of Appeals by Fennemore Craig, P.C. on behalf of the Intervenor-Defendants and disputes regarding the administrative record.

**Original Contract Language:**

3. CONTRACT TERM. This Contract shall be effective from the date of the Board of Examiners' approval and all other approvals are obtained (anticipated to be April 2013) to June 30, 2015, unless sooner terminated by either party as specified in paragraph (10).

6. CONSIDERATION. The parties agree that Contractor will provide the services specified in paragraph five (5) at the hourly rates specified in Attachment "AA" with the total Contract not to exceed \$150,000.00 per Fiscal Year. Contractor shall provide a revised Attachment AA to the Commission by December 31 of each year; and the Commission's Executive Director is authorized to approve subsequent payments to Fennemore Craig at the rates set forth in the revised Attachment AA, provided that the total amount paid is less than the maximum aggregate cost of services approved for Contractor's services by the Board of Examiners. The State does not agree to reimburse Contractor for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the result of legislative appropriation may require.

**Amended Contract #3 Language:**

3.CONTRACT TERM. This Contract shall be effective from the date of the Board of Examiners' approval and all other approvals are obtained to June 30, 2016, unless sooner terminated by either party as specified in paragraph (10).

6.CONSIDERATION. The parties agree that Contractor will provide the services specified in paragraph five (5) at the hourly rates specified in Attachment "AA" with the total and not-to-exceed Contract amount of \$519,000 for the three-year contract term. Contractor shall provide a revised Attachment AA to the Commission by December 31 of each year; and the Commission's Executive Director is authorized to approve subsequent payments to Fennemore Craig at the rates set forth in the revised Attachment AA, provided that the total amount paid is less than the maximum aggregate cost of services approved for Contractor's services by the Board of Examiners. The State does not agree to reimburse Contractor for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the result of legislative appropriation may require.

2. INCORPORATED DOCUMENTS. Exhibit A (Original Contract and Amendments) is attached hereto, incorporated by reference herein and made a part of this amended contract.

3. REQUIRED APPROVAL. This amendment to the original contract shall not become effective until and unless approved by the Nevada State Board of Examiners.



IN WITNESS WHEREOF, the parties hereto have caused this amendment to the original contract to be signed and intend to be legally bound thereby.

NEVADA ATTORNEY GENERAL

Sept. 5, 2014  
Date

Catherine Cortez Masto  
CATHERINE CORTEZ MASTO

COLORADO RIVER COMMISSION

9/9/14  
Date

Jayne Harkins  
JAYNE HARKINS, P.E, Executive Director  
For the Colorado River Commission of  
Nevada

FENNEMORE CRAIG, P.C.

Sept. 2, 2014  
Date

Lauren J. Caster  
LAUREN J. CASTER

Approved as to form:

Approved this 14 day of  
October, 2014.

Jennifer T. Crandell  
Jennifer T. Crandell  
Special Counsel Attorney General

STATE BOARD OF EXAMINERS

Julia Teska  
Clerk



**EXHIBIT A**

**AMENDMENT #2 TO CONTRACT**

**FOR SERVICES OF INDEPENDENT CONTRACTOR**

## **AMENDMENT #2 TO CONTRACT**

**Between the State of Nevada  
Acting By and Through Its**

**Colorado River Commission of Nevada  
555 East Washington Avenue, Suite 3100  
Las Vegas, NV 89101  
Contact: Jayne Harkins  
Phone: (702) 486-2670; Fax: (702) 486-2695  
Email: [jharkins@crc.nv.gov](mailto:jharkins@crc.nv.gov)**

**and**

**Office of the Attorney General  
555 East Washington Avenue, Suite 3900  
Las Vegas, NV 89101  
Contact: Jennifer Crandell  
Phone: (702) 486-2670 Fax: (702) 486-2695  
Email: [jcrandell@crc.nv.gov](mailto:jcrandell@crc.nv.gov)**

**and**

**Fennemore Craig, P.C.  
2394 East Camelback Road, Suite 600  
Phoenix, Arizona 85016-3429  
Contact: Lauren J. Caster  
Telephone: (602) 916-5367 Fax: (602) 916-5567  
Email: [lcaster@fclaw.com](mailto:lcaster@fclaw.com)**

1. **AMENDMENTS.** For and in consideration of mutual promises and/or their valuable consideration, all provisions of the original and amended contract, dated June 11, 2013, attached hereto as Exhibit A, remain in full force and effect with the exception of the following:

- A. On June 11, 2013, a 24-month contract (in FY 2013-2015) between the Commission, the Attorney General and Fennemore Craig, P.C. was approved to retain Fennemore Craig, P.C. to provide legal representation in *The Navajo Nation v. U.S.*, CV-03-00507 PCT PGR, in the United States District Court, For the District of Arizona and related matters. The Contract will expire June 10, 2015.
- B. The original contract with Fennemore Craig, P.C. was for \$150,000 per fiscal year, for the two-year term of the contract, with a not-to-exceed amount of \$300,000.

The First Amendment modifies the amount of the two-year contract, to a not-to-exceed amount of \$239,000, through fiscal year 2014.

- C. The \$239,000 reflects approximately \$24,000 billed in fiscal year 2013, approximately \$150,000 billed in fiscal year 2014, and increased fiscal year 2014 funding by \$65,000, for a total not-to-exceed amount of \$239,000 through June 30, 2014. This amount was for fees and costs to cover the remaining legal work on the reply in support of Intervenor State of Nevada's Motion to Dismiss and oral argument.
- D. To cover litigation costs until such time as the District Court rules on pending dispositive motions, including monitoring the case, legal research to support supplemental authority filings, coordinating with co-defendants, reviewing the Court's decision, making initial strategy recommendations, preparing any initial filing that may be required to move the case forward, and preparing a strategy and submitting a budget to the Commission once the District Court has issued a ruling, the Contract is amended (Amendment #2 to Contract) to provide an amount of \$20,000 for legal fees and costs for fiscal year 2015 to the end of the term of the Contract (July 1, 2014- June 10, 2015). The total not-to-exceed amount for the two-year term of the contract is amended to \$259,000.

**Current Contract Language:**

6. CONSIDERATION. The parties agree that Contractor will provide the services specified in paragraph five (5) at the hourly rates specified in Attachment "AA" with the total Contract not-to-exceed \$150,000.00 per Fiscal Year. Contractor shall provide a revised Attachment AA to the Commission by December 31 of each year; and the Commission's Executive Director is authorized to approve subsequent payments to Fennemore Craig, P.C. at the rates set forth in the revised Attachment AA, provided that the total amount paid is less than the maximum aggregate cost of services approved for Contractor's services by the Board of Examiners. The State does not agree to reimburse Contractor for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the result of legislative appropriation may require.

**Amended Contract Language:**

CONSIDERATION. The parties agree that Contractor will provide the services specified in paragraph five (5) as specified in Attachment "AA" with the total Contract not-to-exceed \$259,000 for the two-year term of the Contract, or until June 10, 2015. The Contract price provides funding for legal fees and disbursements for fiscal year 2015, in the amount of \$20,000, to cover litigation costs until such time as the District Court rules on pending dispositive motions, including monitoring the case, legal research to support supplemental

authority filings, coordinating with co-defendants, reviewing the Court's decision, making initial strategy recommendations, preparing any initial filing that may be required to move the case forward and preparing a strategy and submitting a budget to the Commission once the District Court has issued a ruling. Funding for fiscal year 2015 does not include funds to prepare for and participate in oral argument on the Motion to Dismiss. Contractor shall provide a revised Attachment AA to the Commission by December 31 of each year; and the Commission's Executive Director is authorized to approve subsequent payments to Fennemore Craig, P.C. at the rates set forth in the revised Attachment AA, provided that the total amount paid is less than the maximum aggregate cost of services approved for Contractor's services by the Board of Examiners. The State does not agree to reimburse Contractor for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the result of legislative appropriation may require.

2. INCORPORATED DOCUMENTS. Exhibit A (Original Contract and Amendment) is attached hereto, incorporated by reference herein and made a part of this amended contract.

3. REQUIRED APPROVAL. This amendment to the original contract shall not become effective until and unless approved by the Nevada State Board of Examiners.

IN WITNESS WHEREOF, the parties hereto have caused this amendment to the original contract to be signed and intend to be legally bound thereby.

NEVADA ATTORNEY GENERAL

5/14/14  
Date

  
CATHERINE CORTEZ MASTO

COLORADO RIVER COMMISSION

5/13/14  
Date

  
JAYNE HARKINS, P.E, Executive Director  
For the Colorado River Commission of  
Nevada

FENNEMORE CRAIG, P.C.

Date May 6, 2014 Lauren J. Caster  
LAUREN J. CASTER

Approved as to form:

Approved this 21 day of  
May, 2014.

Jennifer T. Crandell STATE BOARD OF EXAMINERS  
Jennifer T. Crandell  
Special Counsel Attorney General

Alphonse for Julia Teske  
Clerk

**EXHIBIT A**  
**AMENDMENT #1 TO CONTRACT**  
**FOR SERVICES OF INDEPENDENT CONTRACTOR**

**AMENDMENT #1 TO CONTRACT**

**Between the State of Nevada  
Acting By and Through Its**

**Colorado River Commission of Nevada  
555 East Washington Avenue, Suite 3100  
Las Vegas, NV 89101  
Contact: Jayne Harkins  
Phone: (702) 486-2670; Fax: (702) 486-2695  
Email: [jharkins@crc.nv.gov](mailto:jharkins@crc.nv.gov)**

**and**

**Office of the Attorney General  
555 East Washington Avenue, Suite 3900  
Las Vegas, NV 89101  
Contact: Jennifer Crandell  
Phone: (702) 486-2670 Fax: (702) 486-2695  
Email: [jcrandell@crc.nv.gov](mailto:jcrandell@crc.nv.gov)**

**and**

**Fennemore Craig, P.C.  
3003 North Central Avenue, Suite 2600  
Phoenix, Arizona 85012-2913  
Contact: Lauren J. Caster  
Telephone: (602) 916-5367 Fax: (602) 916-5567  
Email: [lcaster@fclaw.com](mailto:lcaster@fclaw.com)**

1. **AMENDMENTS.** For and in consideration of mutual promises and/or their valuable consideration, all provisions of the original and amended contract, dated June 11, 2013, attached hereto as Exhibit A, remain in full force and effect with the exception of the following:

- A. On June 11, 2013, a contract between the Commission, the Attorney General and Fennemore Craig, P.C. was approved to retain Fennemore Craig, P.C. to provide legal representation in *The Navajo Nation v. U.S.*, CV-03-00507 PCT PGR, in the United States District Court, For the District of Arizona and related matters.
- B. The current contract with Fennemore Craig, P.C. is for \$150,000 per fiscal year, for the two-year term of the contract, with a not-to-exceed amount of \$300,000. The First Amendment modifies the amount of the two-year contract, to a not-to-exceed amount of \$239,000 for the two-year contract.



- C. The \$239,000 reflects approximately \$24,000 billed in fiscal year 2013, approximately \$150,000 billed in fiscal year 2014, and increases fiscal year 2014 by \$65,000, for a total not-to-exceed amount of \$239,000 through June 30, 2014, for fees and costs to cover the remaining legal work on the reply in support of Intervenor State of Nevada's Motion to Dismiss and oral argument.

**Current Contract Language:**

6. **CONSIDERATION.** The parties agree that Contractor will provide the services specified in paragraph five (5) at the hourly rates specified in Attachment "AA" with the total Contract not-to-exceed \$150,000.00 per Fiscal Year. Contractor shall provide a revised Attachment AA to the Commission by December 31 of each year; and the Commission's Executive Director is authorized to approve subsequent payments to Fennemore Craig, P.C. at the rates set forth in the revised Attachment AA, provided that the total amount paid is less than the maximum aggregate cost of services approved for Contractor's services by the Board of Examiners. The State does not agree to reimburse Contractor for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the result of legislative appropriation may require.

**Amended Contract Language:**

**CONSIDERATION.** The parties agree that Contractor will provide the services specified in paragraph five (5) as specified in Attachment "AA" with the total Contract not to exceed \$239,000 for the two-year term of the Contract. The Contract price increases the not-to-exceed amount for fiscal year 2014 by \$65,000, for a total of \$215,000 for fiscal year 2014. This new not-to-exceed amount includes all work necessary to research, draft and file the Reply and prepare for and participate in oral argument on the Motion to Dismiss. Contractor shall provide a revised Attachment AA to the Commission by December 31 of each year; and the Commission's Executive Director is authorized to approve subsequent payments to Fennemore Craig, P.C. at the rates set forth in the revised Attachment AA, provided that the total amount paid is less than the maximum aggregate cost of services approved for Contractor's services by the Board of Examiners. The State does not agree to reimburse Contractor for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the result of legislative appropriation may require.

2. **INCORPORATED DOCUMENTS.** Exhibit A (Original Contract and Amendment) is attached hereto, incorporated by reference herein and made a part of this amended contract.



3. REQUIRED APPROVAL. This amendment to the original contract shall not become effective until and unless approved by the Nevada State Board of Examiners.

IN WITNESS WHEREOF, the parties hereto have caused this amendment to the original contract to be signed and intend to be legally bound thereby.

NEVADA ATTORNEY GENERAL

12/2/13  
Date

  
CATHERINE CORTEZ MASTO

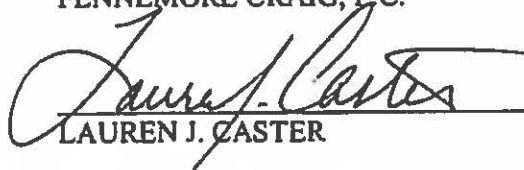
COLORADO RIVER COMMISSION

11/26/13  
Date

  
JAYNE HARKINS, P.E, Executive Director  
For the Colorado River Commission of  
Nevada

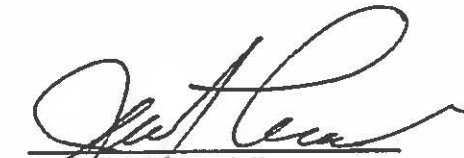
FENNEMORE CRAIG, P.C.

Nov. 20, 2013  
Date

  
LAUREN J. CASTER

Approved as to form:

Approved this 14 day of  
January, 2014.

  
Jennifer T. Crandell  
Special Counsel Attorney General

STATE BOARD OF EXAMINERS

  
Clerk

## **ORIGINAL CONTRACT**

## **CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR**

**A Contract Between the State of Nevada  
Acting By and Through Its**

**Colorado River Commission**

**and**

**Fennemore Craig, P.C.  
2394 East Camelback Road, Suite 600  
Phoenix, Arizona 85016-3429  
Telephone: 602-916-5367  
Fax: 602-916-5567**

WHEREAS, NRS 284.173 authorizes elective officers, heads of departments, boards, commissions or institutions to engage, subject to the approval of the Board of Examiners, services of persons as independent contractors; and

WHEREAS, it is deemed that the service of Contractor is both necessary and in the best interests of the State of Nevada;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. **REQUIRED APPROVAL.** This Contract shall not become effective until and unless approved by the Nevada State Board of Examiners.
2. **DEFINITIONS.** "State" means the State of Nevada and any state agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307. "Independent Contractor" or "Contractor" means a person or entity that performs services and/or provides goods for the State under the terms and conditions set forth in this Contract. "Fiscal Year" is defined as the period beginning July 1 and ending June 30 of the following year.
3. **CONTRACT TERM.** This Contract shall be effective from the date of the Board of Examiners' approval and all other approvals are obtained for 24 months, unless sooner terminated by either party as specified in paragraph (10).
4. **NOTICE.** Unless otherwise specified, termination shall not be effective until 30 calendar days after a party has served written notice of default, or notice of termination without cause upon the other party. 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 telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified herein.

5. INCORPORATED DOCUMENTS. The parties agree that the scope of work shall be specifically described. This Contract incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT "AA": SCOPE OF WORK/FEE AGREEMENT  
FOR LEGAL REPRESENTATION/ENGAGEMENT TERMS

ATTACHMENT "BB": INSURANCE SCHEDULE

A Contractor's Attachment shall not contradict or supersede any State specifications, terms or conditions without written evidence of mutual assent to such change appearing in this Contract.

6. CONSIDERATION. The parties agree that Contractor will provide the services specified in paragraph five (5) as specified in Attachment "AA" with the total Contract not to exceed \$150,000.00 per Fiscal Year. Contractor shall provide a revised Attachment AA to the Commission by December 31 of each year; and the Commission's Executive Director is authorized to approve subsequent payments to Fennemore Craig at the rates set forth in the revised Attachment AA, provided that the total amount paid is less than the maximum aggregate cost of services approved for Contractor's services by the Board of Examiners. The State does not agree to reimburse Contractor for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the result of legislative appropriation may require.

7. ASSENT. The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations specified.

8. TIMELINESS OF BILLING SUBMISSION. The parties agree that timeliness of billing is of the essence to this Contract and recognize that the State is on a Fiscal Year. All billings for dates of service prior to July 1 must be submitted to the State no later than the first Friday in August of the same year. A billing submitted after the first Friday in August, which forces the State to process the billing as a stale claim pursuant to NRS 353.097, will subject the Contractor to an administrative fee not to exceed one hundred dollars (\$100.00). The parties hereby agree this is a reasonable estimate of the additional costs to the State of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to the Contractor.

9. INSPECTION & AUDIT.

a. Books and Records. Contractor agrees to keep and maintain under generally accepted accounting principles (GAAP) full, true and complete records, contracts, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.

b. Inspection & Audit. Contractor agrees that the relevant books, records (written, electronic, computer related or otherwise), including, without limitation, relevant accounting procedures and practices of Contractor or its subcontractors, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Contractor where such records

may be found, with or without notice by the State Auditor, the relevant state agency or its contracted examiners, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives. All subcontracts shall reflect requirements of this paragraph.

c. Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained a minimum three (3) years, and for five (5) years if any federal funds are used pursuant to the Contract. The retention period runs from the date of payment for the relevant goods or services by the State, or from the date of termination of the Contract, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

#### 10. CONTRACT TERMINATION.

a. Termination Without Cause. Any discretionary or vested right of renewal notwithstanding, this Contract may be terminated upon written notice by mutual consent of both parties, or unilaterally by either party without cause.

b. State Termination for Non-appropriation. The continuation of this Contract beyond the current biennium is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the State Legislature and/or federal sources. The State may terminate this Contract, and Contractor waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the Contracting Agency's funding from State and/or federal sources is not appropriated or is withdrawn, limited, or impaired.

c. Cause Termination for Default or Breach. A default or breach may be declared with or without termination. This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:

i. If Contractor fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or

ii. If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or

iii. If Contractor becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or

iv. If the State materially breaches any material duty under this Contract and any such breach impairs Contractor's ability to perform; or

v. If it is found by the State that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the State of Nevada with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or

vi. If it is found by the State that Contractor has failed to disclose any material conflict of interest relative to the performance of this Contract.

d. Time to Correct. Termination upon a declared default or breach may be exercised only after service of formal written notice as specified in paragraph four (4), and the subsequent failure of the defaulting party within fifteen (15) calendar days of receipt of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.



e. Winding Up Affairs Upon Termination. In the event of termination of this Contract for any reason, the parties agree that the provisions of this paragraph survive termination:

- i. The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
- ii. Contractor shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by the Contracting Agency;
- iii. Contractor shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by the Contracting Agency;
- iv. Contractor shall preserve, protect and promptly deliver into State possession all proprietary information in accordance with paragraph twenty-one (21).

11. REMEDIES. 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 attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall include without limitation one hundred and twenty-five dollars (\$125.00) per hour for State-employed attorneys. The State may set off consideration against any unpaid obligation of Contractor to any State agency in accordance with NRS 353C.190.

12. LIMITED LIABILITY. The State will not waive and intends to assert available NRS chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise specified in the incorporated attachments. Damages for any State breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to Contractor, for the Fiscal Year budget in existence at the time of the breach. Damages for any Contractor breach shall not exceed one hundred and fifty percent (150%) of the Contract maximum "not to exceed" value. Contractor's tort liability shall not be limited.

13. FORCE MAJEURE. 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.

14. INDEMNIFICATION. To the fullest extent permitted by law Contractor shall indemnify, hold harmless and defend, not excluding the State's right to participate, the State from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising solely out of any alleged negligent or willful acts or omissions of Contractor, its officers, and employees.

15. INDEPENDENT CONTRACTOR. Contractor is associated with the State only for the purposes and to the extent specified in this Contract, and in respect to performance of the contracted services pursuant to this Contract, Contractor is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. 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 State whatsoever with respect to the indebtedness, liabilities, and obligations of Contractor or any other party. Contractor shall be solely responsible for, and the State shall have no obligation with respect to: (1) withholding of income taxes, FICA or any other taxes or fees; (2) industrial insurance coverage; (3) participation in any group insurance plans available to employees of the State; (4) participation or contributions by either Contractor or the State to the Public Employees Retirement System; (5) accumulation of vacation leave or sick leave; or (6) unemployment compensation coverage provided by the State. Contractor shall indemnify and hold State harmless from, and defend State against, any and all losses, damages, claims, costs, penalties, liabilities, and expenses arising or incurred because of, incident to, or otherwise with respect to any such taxes or fees. Neither Contractor nor its employees, agents, nor representatives shall be considered employees, agents, or representatives of the State. The State and Contractor shall evaluate the nature of services and the term of the Contract negotiated in order to determine "independent contractor" status, and shall monitor the work relationship throughout the term of the Contract to ensure that the independent contractor relationship remains as such. To assist in determining the appropriate status (employee or independent contractor), Contractor represents as follows:

		<u>Contractor's Initials</u>	
		YES	NO
1.	Does the Contracting Agency have the right to require control of when, where and how the independent contractor is to work?	_____	<u>AC</u>
2.	Will the Contracting Agency be providing training to the independent contractor?	_____	<u>AC</u>
3.	Will the Contracting Agency be furnishing the independent contractor with worker's space, equipment, tools, supplies or travel expenses?	_____	<u>AC</u>
4.	Are any of the workers who assist the independent contractor in performance of his/her duties employees of the State of Nevada?	_____	<u>AC</u>
5.	Does the arrangement with the independent contractor contemplate continuing or recurring work (even if the services are seasonal, part-time, or of short duration)?	<u>AC</u>	_____
6.	Will the State of Nevada incur an employment liability if the independent contractor is terminated for failure to perform?	_____	<u>AC</u>
7.	Is the independent contractor restricted from offering his/her services to the general public while engaged in this work relationship with the State?	_____	<u>AC</u>

**16. INSURANCE SCHEDULE.** Unless expressly waived in writing by the State, Contractor, as an independent contractor and not an employee of the State, must carry policies of insurance and pay all taxes and fees incident hereunto. Policies shall meet the terms and conditions as specified within this Contract along with the additional limits and provisions as described in Attachment "BB", incorporated hereto by attachment. The State shall have no liability except as specifically provided in the Contract.

The Contractor shall not commence work before:

1) Contractor has provided the required evidence of insurance to the Contracting Agency of the State, and

2) The State has approved the insurance policies provided by the Contractor.

Prior approval of the insurance policies by the State shall be a condition precedent to any payment of consideration under this Contract and the State's approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent this Contract. Any failure of the State to timely approve shall not constitute a waiver of the condition.

**Insurance Coverage:** The Contractor shall, at the Contractor's sole expense, procure, maintain and keep in force for the duration of the Contract insurance conforming to the minimum limits as specified in Attachment "BB", incorporated hereto by attachment. Unless specifically stated herein or otherwise agreed to by the State, the required insurance shall be in effect prior to the commencement of work by the Contractor and shall continue in force as appropriate until:

1. Final acceptance by the State of the completion of this Contract; or
  2. Such time as the insurance is no longer required by the State under the terms of this Contract;
- Whichever occurs later.

Any insurance or self-insurance available to the State shall be in excess of, and non-contributing with, any insurance required from Contractor, except that this provision shall not apply to Contractor's professional liability insurance. Contractor's insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by the State, Contractor shall provide the State with renewal or replacement evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as Contractor has knowledge of any such failure, Contractor shall immediately notify the State and immediately replace such insurance or bond with an insurer meeting the requirements.

**General Requirements:**

- a. **Additional Insured:** By endorsement to the general liability insurance policy evidenced by Contractor, the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 shall be named as additional insureds for all liability arising from the Contract.
- b. **Waiver of Subrogation:** Each insurance policy shall provide for a waiver of subrogation against the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 for losses arising from work/materials/equipment performed or provided by or on behalf of the Contractor, except that this provision shall not apply to Contractor's professional liability insurance policy.
- c. **Cross-Liability:** All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause, except that this provision shall not apply to Contractor's professional liability insurance policy.
- d. **Deductibles and Self-Insured Retentions:** Insurance maintained by Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by the State. Such approval shall not relieve Contractor from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed fifty thousand dollars (\$50,000.00) per occurrence, unless otherwise approved by the Risk Management Division, except that this provision shall not apply to Contractor's professional liability insurance policy.
- e. **Policy Cancellation:** Except for ten (10) days' notice for non-payment of premium, each insurance policy shall be endorsed to state that without thirty (30) days' prior written notice to the State of Nevada, c/o Contracting Agency, the policy shall not be canceled, non-renewed or coverage and /or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mail to the address shown on page one (1) of this Contract:
- f. **Approved Insurer:** Each insurance policy shall be:
  - 1) Issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers acceptable to the State and having agents in Nevada upon whom service of process may be made; and
  - 2) Currently rated by A.M. Best as "A-VII" or better.



**Evidence of Insurance:**

Prior to the start of any Work, Contractor must provide the following documents to the contracting State agency:

1) **Certificate of Insurance:** The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to the State to evidence the insurance policies and coverages required of Contractor. The certificate must name the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 as the certificate holder. The certificate should be signed by a person authorized by the insurer to bind coverage on its behalf. The state project/contract number; description and contract effective dates shall be noted on the certificate, and upon renewal of the policies listed Contractor shall furnish the State with replacement certificates as described within Insurance Coverage section noted above. This provision shall not apply to Contractor's professional liability insurance policy.

**Mall all required insurance documents to the State Contracting Agency identified in the Contract.**

2) **Additional Insured Endorsement:** An Additional Insured Endorsement (CG 20 10 11 85 or CG 20 26 11 85), signed by an authorized insurance company representative, must be submitted to the State to evidence the endorsement of the State as an additional insured per General Requirements, subsection a above, except that this provision shall not apply to Contractor's professional liability insurance policy.

3) **Schedule of Underlying Insurance Policies:** If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the Underlyer Schedule from the Umbrella or Excess insurance policy may be required.

**Review and Approval:** Documents specified above must be submitted for review and approval by the State prior to the commencement of work by Contractor. Neither approval by the State nor failure to disapprove the insurance furnished by Contractor shall relieve Contractor of Contractor's full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of Contractor or its sub-contractors, employees or agents to the State or others, and shall be in addition to and not in lieu of any other remedy available to the State under this Contract or otherwise. The State reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

**17. COMPLIANCE WITH LEGAL OBLIGATIONS.** Contractor 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 Contractor to provide the goods or services required by this Contract. Contractor will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Real property and personal property taxes are the responsibility of Contractor in accordance with NRS 361.157 and NRS 361.159. Contractor agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract. The State may set-off against consideration due any delinquent government obligation in accordance with NRS 353C.190.

**18. WAIVER OF BREACH.** Failure to declare a breach or the actual waiver of any particular breach of the 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.

19. **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.

20. **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 State, such offending portion of the assignment shall be void, and shall be a breach of this Contract. Contractor shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written consent of the State.

21. **STATE OWNERSHIP OF PROPRIETARY INFORMATION.** Any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under the Contract), or any other documents or drawings, prepared or in the course of preparation by Contractor (or its subcontractors) in performance of its obligations under this Contract shall be the exclusive property of the State and all such materials shall be delivered into State possession by Contractor upon completion, termination, or cancellation of this Contract. Contractor shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of Contractor's obligations under this Contract without the prior written consent of the State. Notwithstanding the foregoing, the State shall have no proprietary interest in any materials licensed for use by the State that are subject to patent, trademark or copyright protection.

22. **PUBLIC RECORDS.** Pursuant to NRS 239.010, information or documents received from Contractor may be open to public inspection and copying. The State has a legal obligation to disclose such information unless a particular record is made confidential by law or a common law balancing of interests. Contractor may label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 333.333, provided that Contractor thereby agrees to indemnify and defend the State for honoring such a designation. The failure to so label any document that is released by the State shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

23. **CONFIDENTIALITY.** Contractor shall keep confidential all information, in whatever form, produced, prepared, observed or received by Contractor to the extent that such information is confidential by law or otherwise required by this Contract.

24. **FEDERAL FUNDING.** In the event federal funds are used for payment of all or part of this Contract:

- a. Contractor certifies, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.
- b. Contractor and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.

c. Contractor and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)

25. LOBBYING. The parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this Contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

- a. Any federal, state, county or local agency, legislature, commission, counsel or board;
- b. Any federal, state, county or local legislator, commission member, counsel member, board member, or other elected official; or
- c. Any officer or employee of any federal, state, county or local agency; legislature, commission, counsel or board.
- d. Notwithstanding the foregoing, nothing in this Contract shall preclude Contractor from negotiating on behalf of the State of Nevada and the Commission with the United States Department of the Interior or any other federal, state or local agency for the purpose of settling or otherwise resolving in whole or in part any claims or defenses presented or raised in matters for which the State and the Commission have engaged Contractor under this Contract.

26. WARRANTIES.

- a. General Warranty. Contractor warrants that all services, deliverables, and/or work product under this Contract shall be completed in a workmanlike manner consistent with standards in the trade, profession, or industry; shall conform to or exceed the specifications set forth in the incorporated attachments; and shall be fit for ordinary use, of good quality, with no material defects.
- b. System Compliance. Contractor warrants that any information system application(s) shall not experience abnormally ending and/or invalid and/or incorrect results from the application(s) in the operating and testing of the business of the State. This warranty includes, without limitation, century recognition, calculations that accommodate same century and multi-century formulas and data values and date data interface values that reflect the century.

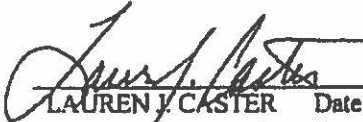
27. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. Contractor acknowledges that as required by statute or regulation this Contract is effective only after approval by the State Board of Examiners and only for the period of time specified in the Contract. Any services performed by Contractor before this Contract is effective or after it ceases to be effective are performed at the sole risk of Contractor.

28. 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 parties consent to the exclusive jurisdiction of the First Judicial District Court, Carson City, Nevada for enforcement of this Contract.

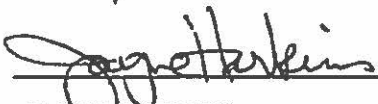
29. ENTIRE CONTRACT AND MODIFICATION. This Contract and its integrated attachment(s) constitute the entire agreement of the parties and as such are intended to be the complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been 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 the Office of the Attorney General and the State Board of Examiners.

IN WITNESS WHEREOF, the Parties have caused this Contract to be executed.

 2/20/2013  
LAUREN J. CASTER Date  
For FENMORE CRAIG, P.C.

Director and Shareholder


 3/13/13  
JAYNE HARKINS  
For COLORADO RIVER COMMISSION OF NEVADA

Executive Director

  
Signature - Board of Examiners

APPROVED BY BOARD OF EXAMINERS

Approved as to form by:

  
Jennifer T. Crandell  
Senior Deputy Attorney General for Attorney General

On 6-11-13

Date

On 2/25/13

Date

## **ATTACHMENT "AA"**

### **SCOPE OF WORK/FEE AGREEMENT FOR LEGAL REPRESENTATION/ENGAGEMENT TERMS**

**Definitions:** "Fennemore" or the "Firm" shall mean Fennemore Craig, P.C. "You" shall mean the State of Nevada and the Colorado River Commission of Nevada ("Commission").

#### **Scope of Work**

The scope of work encompassed by this Contract shall include:

1. Monitoring, reporting on and legal representation of the State of Nevada, the Commission and the Southern Nevada Water Authority, in connection with any negotiations to resolve the water right claims of the Navajo Nation and the Hopi Tribe asserted in *In re General Adjudication of All Rights to Use Water in the Little Colorado River System & Source*, Case No. 6417, Superior Court of Arizona, Apache County, as requested by the Executive Director of the Commission.

2. Provide legal representation of the State of Nevada, the Commission and the Southern Nevada Water Authority, in *Navajo Nation v. United States Department of the Interior et al.*, Case No. CIV 03-0507 PCT PGR, United States District Court, District of Arizona, and any appellate proceedings related to that action as requested by the Executive Director of the Commission.

3. Additionally, provide legal representation to the State of Nevada, the Commission and the Southern Nevada Water Authority in threatened or actual future legal action by the Navajo Nation and/or Hopi Tribes, as requested in writing by the Executive Director of the Commission.

3. Contractor shall provide to the Attorney General's Office or Senior Deputy Attorney General as his/her designee, written, quarterly reports summarizing significant developments in regard to the subject matter of the contract and significant services performed under the Contract.

#### **Fee Agreement**

Fennemore shall bill at the following rates for services under this Contract:

<b>Attorney</b>	<b>2013 Hourly Rate</b>
Lauren J. Caster	\$436.50
Gregory L. Adams	\$315.00
<b>Paralegal</b>	<b>2013 Hourly Rate</b>
Ruth Murphy	\$162.00



Each month Fennemore shall provide a statement of charges incurred in accordance with this Contract for the prior month's services and expenses on or before the last day of the next succeeding month. The Firm requests that you review any billing statements promptly upon receipt to determine if you have any questions or comments. Payment for charges properly billed in accordance with this Contract will be paid promptly after the receipt of the statement. Bills also will include, in addition to billing for professional services, charges for disbursements such as filing fees, computer legal research charges, reasonable travel expenses as limited to the per diem reimbursement rules available to state employees for travel, long distance telephone charges, outgoing telecopier charges (\$.75 per page for transmission plus long distance charges), document reproduction costs (\$.15 per page), messenger charges, and under certain circumstances, secretarial overtime, including related overhead in appropriate instances. Photocopying costs may not exceed \$2,000 for a single job without prior approval. Any changes in these routine charges will be reflected in the monthly billing statements. The Firm makes every effort to include disbursements in the statement for the month in which the disbursements are incurred. However, some disbursements, such as telephone charges, are not available to it until sometime after the month in which the service related to the charge was performed, in which case the disbursement may be reflected in the statement issued in the next succeeding month, in a supplemental statement. Large disbursements to third party providers, such as expert witness fees, require advanced approval of the Commission.

Expenses which the Commission will not reimburse Fennemore for include: Fees for the training of personnel incurred as a result of staffing changes or increases during the term of the contract; fees for time spent educating junior professionals or associates; and fees for more than ten hours of work per day for any individual, except during trial or another extraordinary event.

Occasionally, funds due the client will be deposited with Fennemore for the benefit of the client. Absent other agreement with the client, such funds will be deposited in a general firm trust account, with interest payable to the Arizona Foundation for Legal Services and Education. No advanced retainer fee is being requested by the Firm.

Any estimates of anticipated fees that the Firm provides for budgeting purposes or otherwise are, due to the uncertainties involved, necessarily only an approximation of potential fees. Such estimates are not a maximum or minimum fee quotation.

In the unlikely event of a dispute regarding the amount or payment of fees, the Firm has the right to terminate the legal representation in this matter, subject to its obligation to give you notice, consistent with the Contract, to arrange for alternate representation. The Firm and you mutually agree that any such fee dispute shall be submitted to mandatory non-binding arbitration. Such arbitration shall be conducted in accordance with procedures established by the State Bar of Nevada before an arbitrator or arbitrators selected in accordance with those procedures, who shall hear and resolve the dispute in Clark County, Nevada. The prevailing party in any such arbitration shall be entitled to reasonable attorneys' fees and other costs incurred as a result of the action or proceeding.

### **Mediation**

As to any claim or dispute arising out of or connected with the Firm's services, other than a fee dispute covered by the preceding paragraph, the Firm and you mutually agree to attempt in good faith to settle the dispute by non-binding mediation before commencing any legal action or other dispute resolution procedure.

## **Conflicts**

Fennemore Craig, P.C. practices in Nevada under the name Fennemore Craig Jones Vargas. The Firm represents clients in a broad range of transactional and disputed matters. Some of these involve the State of Nevada, its subdivisions and agencies, and in many of those situations the State or its subdivisions and agencies are represented by the Office of the Nevada Attorney General. Consistent with ER 1.13, Rules of Professional Conduct and Rule 42, Rules of the Supreme Court of Arizona, Fennemore regards as its clients particular agencies, departments or subdivisions of the State of Nevada, and not the entire State of Nevada, when it has been engaged by such individual agencies, departments or subdivisions. Conversely, when a client engages Fennemore in a matter in which that client's interests are directly adverse to an agency, department, or subdivision of the State of Nevada, Fennemore regards such agency, department, or subdivision as the entity whose interests are adverse to Fennemore's client; it does not consider the State of Nevada as the entity whose interests are so adverse. Accordingly, should Fennemore be engaged by the Office of the Nevada Attorney General to represent the interests of a particular agency, department, or subdivision of the State of Nevada, Fennemore will consider only that agency, department, or subdivision to be its client for purposes of conflicts of interest. It is possible that during the time that the Firm is representing you, some of the Firm's present or future clients will have disputes or transactions with the State of Nevada, its agencies, departments or subdivisions. You agree that the Firm may continue to represent, or may undertake in the future to represent, existing or new clients in any matter, if after consultation with the Commission it is agreed and determined the new matter is not substantially related to the Firm's work pursuant to this Contract and the conflict is specifically waived in writing by the Executive Director. Specifically, you agree that the Firm may represent other clients whose interests are adverse to the State of Nevada in matters unrelated to the Firm's representation of the State of Nevada under this Contract, including in litigation. The Firm agrees, however, that the above consent shall not apply in any instance where, as a result of its representation of you, it has obtained proprietary or other confidential information of a nonpublic nature that, if known to the other client, could be used by the other client in such other matter to your material disadvantage. In engagement letters with many of its other clients, the Firm has asked for similar agreements to preserve its ability to represent you. In addition, you agree that the Firm may disclose the fact of its representation of you, without disclosing the nature of such representation, to other current or future clients that may be adverse to you for the purpose of obtaining such other clients' consent to any conflict of interest that may be presented by the Firm's representation of you and such other client. The Firm will not disclose to the other client any confidential information pertaining to its representation of you.

Fennemore sometimes represent lawyers and law firms, and it is sometimes represented by other lawyers and law firms in matters unrelated to its representation of you. Because the Firm does not believe these representations will materially limit its responsibilities to you or will otherwise adversely affect its representation of you, the Firm does not believe these representations present conflicts of interest. If the Firm enters into representation of a new client that it believes may create a potential conflict with the interests of the Commission, Fennemore will consult with the Commission and request a written waiver of any potential conflict. Fennemore will consult with the Attorney General's Office regarding potential conflicts of interest, and at all times act in accordance with the Nevada Rules of Professional Conduct.

### **Post-Engagement Matters**

Unless the Firm's engagement is by its nature a continuing one (as when it is initially engaged to handle one of a series of separate matters that will be referred to the Firm in connection with an ongoing project) or unless the Contract specifically reflects that the Firm's engagement is intended to continue beyond the current matter, the Firm's engagement will cease upon completion of the matter for which you have engaged it. Upon conclusion of the tasks the Firm has been asked to perform in connection with this engagement, it will have no duty to inform you of future developments or changes in the law affecting any of your interests including your interests in the matter subject to this engagement. To the extent that the Firm voluntarily provides you with newsletters, documents or information concerning such matters following the conclusion of this engagement, such provision shall be considered a matter of courtesy only and shall not be considered the fulfillment or basis of any duty or the re-establishment of any attorney-client relationship.

### **Retention and Destruction of Documents**

Following the conclusion of this engagement, any otherwise nonpublic information you have supplied to the Firm which is retained by it will be kept confidential in accordance with applicable rules of professional conduct. At your request, your papers and property will be returned to you promptly upon receipt of payment of outstanding fees and costs. The Firm's own files pertaining to the matter, which include, for example, firm administrative records, time and expense reports, personnel and staffing materials, credit and accounting records, and internal lawyers' work reports, prepared by or for the internal use of lawyers, will be retained by the Firm. If you do not request the return of your records, your records will be destroyed following the period of time specified by Paragraph 9.c of the Contract and the Firm's document retention/destruction policy. The latter period may vary depending on the nature of the engagement involved. In any event, all files may be destroyed seven years following the conclusion of the engagement.

### **Opinions**

During the course of the Firm's representation of you, it may express opinions or beliefs concerning litigation or various courses of action and the results that might be anticipated. Any such statement is intended to be an expression of opinion only, and should not be construed by you as a promise or guaranty.

### **Confidentiality**

Fennemore will maintain all information regarding your representation confidential in accordance with the Arizona Rules of Professional Conduct. From time to time the Firm may have discussions with other lawyers for the purpose of considering their employment by Fennemore, or law firms for the purpose of considering a potential combination with such law firms. During the course of those discussions it may be necessary to disclose your identity as a client or fee and billing information relating to the Firm's representation of you. Such disclosure shall be subject to a confidentiality agreement between the Firm and such other lawyers or law firms, and you agree that the Firm may disclose such limited information for these purposes.



## **Multi-Party Representation**

Under the Rules of Professional Conduct, the Firm is permitted to represent multiple clients in a matter as long as it can adequately represent the interests of each client and each client knowingly consents, in writing, to the joint representation. If this matter involves the Firm's representation of multiple clients, either at the commencement or during the course of the representation, the Firm believes, based on the information available to it at the time of undertaking the joint representation, that there are no conflicts of interest among the clients that would prevent it from undertaking their joint representation. Accordingly, the Firm will share all material information relating to the representation with all clients; although its communications with one or more of you are protected by the attorney-client privilege vis-à-vis all third parties, information any one of you shares with the Firm is not protected by the privilege among yourselves. While the interests of the multiple clients may be similar in many respects, they may not be identical and a conflict may develop at some later date. If at any time Fennemore or the Commission becomes aware of any conflict or potential conflict between your interests and those of another client, we mutually agree to communicate immediately so that it can determine whether it can continue to represent any of the clients. If the parties disagree on any issue, the Firm will ask you to resolve your differences among yourselves, without its assistance. If you cannot resolve your differences, the Firm will not be able to represent any one of you as to that issue. If the differences are serious enough, the Firm may be required by applicable ethics rules to withdraw from the matter completely.

**ATTACHMENT "BB"**  
**INSURANCE SCHEDULE**

**INDEMNIFICATION CLAUSE:**

Contractor shall indemnify, hold harmless and, not excluding the State's right to participate, defend the State, its officers, officials, agents, and employees (hereinafter referred to as "Indemnatee") from and against all liabilities, claims, actions, damages, losses, and expenses including without limitation reasonable attorneys' fees and costs, (hereinafter referred to collectively as "claims") for bodily injury or personal injury including death, or loss or damage to tangible or intangible property caused, or alleged to be caused, solely by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, or employees. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this Contract, the Contractor agrees to waive all rights of subrogation against the State, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the State, except that this waiver of subrogation rights does not apply to losses arising from Contractor's professional negligence, including without limitation Contractor's work covered by its professional liability insurance policy.

**INSURANCE REQUIREMENTS:**

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, his agents, representatives, employees or subcontractors and Contractor is free to purchase additional insurance as may be determined necessary.

- A. MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a "following form" basis.

**1. Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage and broad form contractual liability coverage.

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Each Occurrence \$1,000,000

**2. Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$100,000
Disease — Each Employee	\$100,000
Disease — Policy Limit	\$500,000

**3. Professional Liability (Errors and Omissions Liability)**

The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this Contract.

Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000

- a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

**B. ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:

1. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources, except that this provision shall not apply to Contractor's professional liability insurance.

- C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the State, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to:

Jayne Harkins, P.E., Executive Director  
Colorado River Commission of Nevada  
555 East Washington Ave., Suite 3100  
Las Vegas, Nevada 89101

- D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or authorized to do business in the State of Nevada and with an "A.M. Best" rating of not less than A-VII. The State in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- E. **VERIFICATION OF COVERAGE:** Contractor shall furnish the State with certificates of insurance (ACORD form or equivalent approved by the State) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the State before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be sent directly to (Jayne Harkins, Executive Director, Colorado River Commission of Nevada, 555 E. Washington Avenue, Suite 3100, Las Vegas, NV 89101). The State project/contract number and project description shall be noted on the certificate of insurance. The State reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

- F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as additional insured's under its policies or Contractor shall furnish to the State separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to the minimum requirements identified above. This provision shall not apply to Contractor's professional liability insurance policy.
- G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the Risk Management Division or the Attorney General's Office, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

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**AMENDMENT TO**  
**CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR**  
**Between the State of Nevada Acting By and Through Its**  
**COLORADO RIVER COMMISSION and FENNEMORE CRAIG, P.C.**

1. THIS AMENDMENT TO CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR, is made between the State of Nevada, acting by and through its Colorado River Commission, hereinafter referred to as the "Commission," the Attorney General of the State of Nevada, Catherine Cortez Masto, (Attorney General) and Fennemore Craig, P.C., a professional corporation, hereinafter referred to as the "Contractor."

**AMENDED EXPLANATORY RECITALS**

2. (a) WHEREAS, NRS 333.700 authorizes elective officers, heads of departments, boards, commissions or institutions, subject to the approval of the Nevada State Board of Examiners, to engage the services of natural persons, firms or corporations as independent contractors; and

(b) WHEREAS, the Commission has determined that the services of Contractor are necessary, desirable and in the best interest of the State of Nevada and the Commission; and

(c) WHEREAS, pursuant NRS 538.151 the Attorney General is the attorney for the Commission and shall designate one or more deputy attorney generals to conduct actions, proceedings, and hearings for the Commission; and

1 (d) WHEREAS, pursuant to NRS 41.03435, NRS 228.110(1) and NRS  
2 228.110(2) the Attorney General, who has been designated as the legal advisor for the  
3 Commission, may employ special deputy counsel when she determines that it is impracticable,  
4 uneconomical or could constitute a conflict of interest for the legal service to be rendered by the  
5 Attorney General or deputy attorney general, and where employed in a matter outside of the  
6 State of Nevada and when such contract is funded by the Commission, a customer funded  
7 agency; and

8 (e) WHEREAS, pursuant to NRS 228.180 and NRS 228.190 the Attorney  
9 General, in the name of the State, is authorized to intervene in any action establishing and  
10 determining the rights of the State of Nevada in and to the water of all interstate streams located  
11 partly in Nevada where such waters or part thereof are claimed by any other state; and

12 (f) WHEREAS, the contract with Contractor shall be for the Commission and  
13 the Attorney General to engage out-of-state counsel, as a special deputy counsel, located in the  
14 State of Arizona, for representation in *The Navajo Nation v. U.S.*, CV-03-00507 PCT JWS, in the  
15 United States District Court, for the District of Arizona, because it would be impracticable and  
16 uneconomical for services to be rendered solely by the deputy attorney generals assigned; and

17 (g) WHEREAS, on March 12, 2013, the Commission, a non-general fund  
18 agency of the State, approved the Contract with the Contractor to represent the State of Nevada,  
19 the Commission and the Southern Nevada Water Authority in *The Navajo Nation v. U.S.* and  
20 related matters, and has agreed to pay contractor from customer funds only; and

1 (h) WHEREAS, the Commission, the Contractor and the Attorney General  
2 have determined that the Contract be amended to include the Attorney General as a Party to the  
3 Contract;

4 IN CONSIDERATION of the mutual covenants herein contained, the parties hereto  
5 agree to the amendments as follows:  
6

7 **TITLE AND SIGNATURE PAGES**

8 **CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR**

9  
10 A Contract Between the State of Nevada  
11 Acting By and Through Its

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13 **ATTORNEY GENERAL; its**

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15 **COLORADO RIVER COMMISSION OF NEVADA**

16  
17 **and**

18  
19 **FENNEMORE CRAIG, P.C.**  
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22 **ATTACHMENT AA:**  
23 **Scope of Work**  
24

25 The scope of work encompassed by this Contract shall include:

26 1. Monitoring, reporting on and legal representation, as a special deputy counsel, of  
27 the State of Nevada, the Commission, and the Southern Nevada Water Authority, in connection  
28 with any negotiations to resolve the water right claims of the Navajo Nation and the Hopi Tribe  
29 asserted in *In re General Adjudication of All Rights to Use Water in the Little Colorado River*  
30 *System & Source*, Case No. 6417, Superior Court of Arizona, Apache County, as requested by  
31 the Executive Director of the Commission.



1           2.     Provide legal representation, as a special deputy counsel, of the State of Nevada,  
2     the Commission and the Southern Nevada Water Authority in *The Navajo Nation v. United*  
3     *States Department of the Interior et al.*, Case No. CV-03-00507 PCT JWS, United States District  
4     Court, District of Arizona, and any appellate proceedings related to that action, as requested by  
5     the Executive Director of the Commission.

6           3.     Additionally, provide legal representation, as a special deputy counsel, to the  
7     State of Nevada, the Commission and the Southern Nevada Water Authority in threatened or  
8     actual future legal action by The Navajo Nation and/or Hopi Tribes, as requested in writing by  
9     the Executive Director of the Commission.

10          4.     Contractor shall provide to the Attorney General's Office or Senior Deputy  
11     Attorney General as his/her designee, written, quarterly reports summarizing significant  
12     developments in regard to the subject matter of the contract and significant services performed  
13     under the Contract.

14                   **ORIGINAL CONTRACT TO REMAIN IN EFFECT**

15          5.     Except as otherwise herein amended, the original Contract executed by the  
16     Executive Director on March 13, 2013 and Fennemore Craig, P.C. on February 20, 2013, shall  
17     remain the same and fully in effect.

18                   **JURISDICTION**

19          6.     The laws of the State of Nevada govern this Amendatory Contract.

20                   **HEADINGS**

21          7.     The section headings in this Amendatory Contract are intended for convenience only  
22     and must not be taken into consideration in any interpretation of the contract or any of its  
23     provisions.

24           IN WITNESS WHEREOF, the parties have caused this Contract to be executed and will  
25     become effective upon execution by the State Board of Examiners.

26     //

27     //

28     //

ATTORNEY  
GENERAL'S  
OFFICE



LAS VEGAS,  
NEVADA



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NEVADA ATTORNEY GENERAL

5/24/13  
Date

*Catherine Cortez Masto*  
CATHERINE CORTEZ MASTO

COLORADO RIVER COMMISSION

5/24/13  
Date

*Jayne Harkins*  
JAYNE HARKINS, P.E., Executive Director  
For the Colorado River Commission of Nevada

FENNEMORE CRAIG, P.C.

May 20, 2013  
Date

*Lauren J. Caster*  
LAUREN J. CASTER

Approved as to form:

Approved this 11<sup>th</sup> day of  
June, 2013.

*Jennifer T. Crandell*  
Jennifer T. Crandell  
Senior Deputy Attorney General

STATE BOARD OF EXAMINERS

*[Signature]*  
Clerk

## **FENNEMORE CRAIG - 2020 DIRECTORS/SHAREHOLDERS**

### **Equity Directors/Shareholders**

ABDO, AMY  
ANDERSON, ROBERT D.  
ARANA, KIMBERLY A. HOWARD  
BAUER, BENJAMIN W.  
BELLER, COURTNEY  
BERG, TIMOTHY  
BETHEA, JOHN D.  
BLACK, PATRICK J.  
BOND, JAMES R.  
BONNER, KEVIN J.  
BRYAN, RICHARD H.  
BUCKLEY, MICHAEL E.  
BYRD, CHRISTOPHER H.  
CAIN, AARON T.  
CALLAHAN, CHRISTOPHER L.  
CASTER, LAUREN J.  
DAHL, BRUCE E.  
DOLAN, COLLEEN A.  
DREITZER, RICHARD  
ETEM, CRAIG E.  
FARGOTSTEIN, PHILLIP F.  
FREEMAN, SCOTT DAY  
GOOCH, J. CHRISTOPHER  
GOOD, STEPHEN A.  
GOODNOW, JAMES  
HARRIS, RAY K.  
HART, LESLIE BRYAN  
HAWKINS, MARK A.  
HOOD, SEAN T.

JAMES, NORMAN D.  
JEFFERIES, JOHN RANDALL  
KARTCHNER, TODD S.  
KOFRON, JOHN E.  
KRAMER, JAY S.  
KRAUJA, GEORGE O.  
LAMBER, MARC H.  
LEE, T. JAMES  
LOPEZ, LOUIS  
MARCONI, ANDREA L.  
MEIDINGER, DAWN G.  
MINER, DON  
NESVIG, MARK A.  
NORTHUP, DOUGLAS C.  
PEARCE, JOHN M.  
POST, JESSICA L.  
PROCTER-MURPHY, JANICE  
REASER, DAN R.  
REECE, CATHY L.  
ROSS, C.W.  
SHEEHAN, PATRICK J.  
SHELLEY, J. BARRY  
SHELLEY, GERALD L.  
SMITH, STACIE KEIM  
STRUNK, SARAH  
TENNERT III, JOHN D.  
TRIBE, STEPHANIE FORD  
WISSINK, SUSAN M.  
ZUCKER, JEFFREY P.

### **Guaranteed Directors/Shareholders**

DE BLASI, MICHELLE  
HEAP, DAVID N.  
HOFFMAN, KATHERINE

O'MARA, COURTNEY MILLER  
WALTHER, CHRISTOPHER

### **Income Directors/Shareholders**

ARANA, DANIEL G.  
ARANA, HECTOR G.  
AUSTIN, ANTHONY W.  
BILLINGSLEY, RHETT  
CHERNYSHEVA, MARGO  
COLE, GEORGE T.  
CURTIS, RYAN C.  
DAVIS JR., WILLIAM C.  
EFIRD, SAMUEL S.

FELL, THOMAS H.  
HANKS, GREGG  
IRVINE, PATRICK  
JOHNSON, KEVIN CAMERON  
KRAMER, ROBERT  
LELEU, JONATHAN  
MACRE, HEATHER  
McCARVILLE, DAVID A.  
MORGAN, ANN  
PIERCE, SHANNON S.

## FENNEMORE CRAIG - 2020 OFFICERS

ABDO, AMY	Vice President	HOFFMAN, KATHERINE	Vice President / Secretary
ANDERSON, ROBERT D.	Vice President	HOOD, SEAN T.	Vice President
ARANA, DANIEL G.	Vice President	IRVINE, PATRICK	Vice President
ARANA, HECTOR G.	Vice President	JAMES, NORMAN D.	Vice President
ARANA, KIMBERLY A. HOWARD	Vice President	JEFFERIES, JOHN RANDALL	Vice President
AUSTIN, ANTHONY W.	Vice President	JOHNSON, KEVIN CAMERON	Vice President
BAUER, BENJAMIN W.	Vice President	KARTCHNER, TODD S.	Vice President
BELLER, COURTNEY	Vice President	KOFRON, JOHN E.	Vice President
BERG, TIMOTHY	Vice President / General Counsel	KRAMER, JAY S.	Vice President
BETHEA, JOHN D.	Vice President	KRAMER, ROBERT	Vice President
BILLINGSLEY, RHETT	Vice President	KRAUJA, GEORGE O.	Vice President
BLACK, PATRICK J.	Vice President	LAMBER, MARC H.	Vice President
BOND, JAMES R.	Vice President	LEE, T. JAMES	Vice President
BONNER, KEVIN J.	Vice President / Assoc General Counsel	LELEU, JONATHAN	Vice President
BRYAN, RICHARD H.	Vice President	LOPEZ, LOUIS	Vice President
BUCKLEY, MICHAEL E.	Vice President	MACRE, HEATHER	Vice President
BYRD, CHRISTOPHER H.	Vice President	MARCONI, ANDREA L.	Vice President
CAIN, AARON T.	Vice President	McCARVILLE, DAVID A.	Vice President
CALLAHAN, CHRISTOPHER L.	Vice President	MEIDINGER, DAWN G.	Vice President
CASTER, LAUREN J.	Vice President	MINER, DON	Vice President
CHERNYSHEVA, MARGO	Vice President	MORGAN, ANN	Vice President
COLE, GEORGE T.	Vice President	NESVIG, MARK A.	Vice President
CURTIS, RYAN C.	Vice President	NORTHUP, DOUGLAS C.	Vice President
DAHL, BRUCE E.	Vice President	O'MARA, COURTNEY MILLER	Vice President
DAVIS JR., WILLIAM C.	Vice President	PEARCE, JOHN M.	Vice President
DE BLASI, MICHELLE	Vice President	PIERCE, SHANNON S.	Vice President
DOLAN, COLLEEN A.	Vice President	POST, JESSICA L.	Vice President
DREITZER, RICHARD	Vice President	PROCTER-MURPHY, JANICE	Vice President / Assoc General Counsel
EFIRD, SAMUEL S.	Vice President / Asst Secretary	REASER, DAN R.	Vice President
ETEM, CRAIG E.	Vice President	REECE, CATHY L.	Vice President
FARGOTSTEIN, PHILLIP F.	Vice President / Treasurer	ROSS, C.W.	Vice President / Assoc General Counsel
FELL, THOMAS H.	Vice President	SHEEHAN, PATRICK J.	Vice President
FREEMAN, SCOTT DAY	Vice President	SHELLEY, GERALD L.	Vice President
GOOCH, J. CHRISTOPHER	Vice President	SHELLEY, J. BARRY	Vice President
GOOD, STEPHEN A.	Vice President / Assoc General Counsel	SMITH, STACIE KEIM	Vice President
GOODNOW, JAMES	President	STRUNK, SARAH	Chair of the Board
HANKS, G.	Vice President	TENNERT III, JOHN D.	Vice President
HARRIS, RAY K.	Vice President	TRIBE, STEPHANIE FORD	Vice President
HART, LESLIE BRYAN	Vice President	WALTHER, CHRISTOPHER	Vice President
HAWKINS, MARK A.	Vice President	WISSINK, SUSAN M.	Vice President
HEAP, DAVID N.	Vice President	ZUCKER, JEFFREY	Vice President

# SECRETARY OF STATE



## NEVADA STATE BUSINESS LICENSE

**FENNEMORE CRAIG, P.C.**

**Nevada Business Identification # NV20061183222**

**Expiration Date: 08/31/2020**

In accordance with Title 7 of Nevada Revised Statutes, pursuant to proper application duly filed and payment of appropriate prescribed fees, the above named is hereby granted a Nevada State Business License for business activities conducted within the State of Nevada.

Valid until the expiration date listed unless suspended, revoked or cancelled in accordance with the provisions in Nevada Revised Statutes. License is not transferable and is not in lieu of any local business license, permit or registration.

**License must be cancelled on or before its expiration date if business activity ceases. Failure to do so will result in late fees or penalties which, by law, cannot be waived.**



IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of State, at my office on 10/15/2019.

*Barbara K. Cegavske*

Certificate Number: B20191015294722

You may verify this certificate  
online at <http://www.nvsos.gov>

BARBARA K. CEGAVSKE  
Secretary of State



January 31, 2020

Fennemore Craig, P.C.  
2394 East Camelback Road  
Suite 600  
Phoenix, AZ 85016-3429

To Whom It May Concern:

### CONFIRMATION OF INSURANCE

We hereby confirm that Fennemore Craig, P.C. has Professional Liability Coverage under Policy ALA#1271 with an annual limit of \$40,000,000 per claim and \$80,000,000 in the aggregate with the right, under stated conditions, to purchase extended reporting rights upon termination of such Policy by ALAS.

The self-insured retention under such Policy is \$500,000 each claim up to an aggregate of \$1,000,000 and \$100,000 each claim thereafter.

The Policy effective date is from January 1, 2020 to January 1, 2021.

Such Policy is subject to the terms, conditions, limitations and exclusions stated therein.

### ATTORNEYS' LIABILITY ASSURANCE SOCIETY LTD., A RISK RETENTION GROUP

By: Nancy Montroy Date: 1/31/2020

Nancy J. Montroy  
Vice President - Director of Underwriting

311 S Wacker Drive, Suite 5700  
Chicago, IL 60606-6629  
tel 312 697 6900  
fax 312 697 6901

[alas.com](http://alas.com)



COLORADO RIVER  
COMMISSION  
DEC 14 2018  
RECEIVED

## FENNEMORE CRAIG, P.C.

2394 East Camelback Road, Suite 600  
Phoenix, Arizona 85016-3429  
(602) 916-5000

**Lauren J. Caster**

Direct Phone: (602) 916-5367  
Direct Fax: (602) 916-5567  
lcaster@fclaw.com

**Law Offices**

Denver (303) 291-3200  
Las Vegas (702) 692-8000  
Nogales (520) 281-3480  
Phoenix (602) 916-5000  
Reno (775) 788-2200  
Tucson (520) 879-6800

December 11, 2018

Ms. Jennifer T. Crandell  
Colorado River Commission of Nevada  
% State of Nevada  
555 E. Washington Ave., Suite 3100  
Las Vegas, Nevada 89101

Re: 2019 billing rates

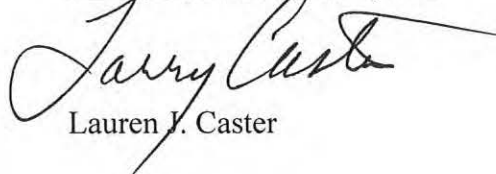
Dear Ms. Crandell:

Enclosed is a list of the 2019 hourly rates for Fennemore Craig personnel most likely to perform services for the Commission. The right column sets forth 90% of standard rates, which is what applies to the *Navajo Nation v. U.S. Department of Interior* matter. Obviously we recognize that we are operating within the approved budget.

We appreciate the opportunity to serve the Colorado River Commission of Nevada, State of Nevada and the Southern Nevada Water Authority. If you have any questions, please let me know.

Very truly yours,

FENNEMORE CRAIG, P.C.



Lauren J. Caster

Enclosure

**ENVIRONMENTAL/UTILITY**

<b>Practice Group</b>	<b>Personnel</b>	<b>Hourly Rate</b>	<b>90% of Hourly Rate</b>
Environ/Util	Anderson, Robert	525	472.50
Environ/Util	Billingsley, Rhett A.	445	400.50
Environ/Util	Black, Patrick	525	472.50
Environ/Util	Caster, Lauren	550	495.00
Environ/Util	DeBlasi, Michelle	505	454.50
Environ/Util	Fargotstein, Phillip	540	486.00
Environ/Util	Ferrigni, Lauren	300	270.00
Environ/Util	Heiserman, Brian J.	320	288.00
Environ/Util	Hood, Sean T.	450	405.00
Environ/Util	James, Norman	630	567.00
Environ/Util	Marra, Marc	405	364.50
Environ/Util	Meidinger, Dawn	460	414.00
Environ/Util	Pearce, John	630	567.00
Environ/Util	Pew, Bradley J.	300	270.00
Environ/Util	Stewart, Annie	240	216.00
Environ/Util	Thomas, Scott	445	400.50



**COLORADO RIVER COMMISSION OF NEVADA**  
**AGENDA ITEM E**  
**FOR MEETING OF APRIL 14, 2020**

**SUBJECT:**

*For Possible Action:* Consideration of and possible action to approve a four-year contract in the amount of \$259,600 for services of independent contractor among Energized Electric System Safety Training and Compliance Services (ESCI) and the Commission to provide ongoing energized electric safety training and compliance service for the Power Delivery Group.

**RELATED TO AGENDA ITEM:**

None.

**RECOMMENDATION OR RECOMMENDED MOTION:**

Staff recommends approval of a four-year contract in the amount of \$259,600 for services of independent contractor among Energized Electric System Safety Training and Compliance Services (ESCI) and the Commission.

**FISAL IMPACT:**

Four year contract with a not to exceed amount of \$259,600.

**STAFF COMMENTS AND BACKGROUND:**

The Commission owns and operates high-voltage transmission and distribution facilities in southern Nevada. The Commission employs a staff of managers, engineers, technicians, and electricians and desires to ensure these employees are trained in the hazards associated with the operation and maintenance of the energized electric system and on proper mitigation measures, procedures and tools. The Commission's contract for energized electric system safety training and compliance services that meet the requirements established by OSHA 29 CFR 1910 expired in December 31, 2019. In 2020, Energized Electric System Safety Training and Compliance Services (ESCI) was selected through a Request for Proposal (RFP) process carried out by Nevada State Purchasing to provide safety training and compliance services.

The Commission has utilized the services of ESCI to:

1. Develop and implement a safety and wellness training program. The program is based upon the requirements of OSHA 29 CFR 1910 and the latest edition of the American Public Power Association's Safety Manual. The program includes such topics as first aid, CPR, equipotential grounding, hot stick use and care, electrical safety, confined space entry, and hazardous material communication. ESCI will implement the program by providing monthly training sessions at the Commission's Newport Substation office complex.
2. Develop and implement a high-voltage switchman certification program. The program is based upon the Commission's Switching and Clearance Procedures, the American Public Power Association's Safety Manual, and the Western Area Power Administration's Power System Switching Procedure. ESCI will provide classroom instruction, hands-on practice, and a written exam in order to ensure the Commission's personnel are properly qualified and trained to carryout high-voltage switching.
3. Provide commercial driver license (CDL) training and CDL records maintenance. ESCI will provide training to allow the Commission's operation and maintenance personnel to receive a CDL issued by the State of Nevada. ESCI will provide follow-up services including a drug-testing program that meets the requirements of State of Nevada Department of Motor Vehicles.
4. Provide safety equipment and materials as requested up to \$10,000 per year as identified and directed by the Commission. Equipment may include automated external defibrillators (AEDs) as required for electrical workers by OSHA and outdoor gas cylinder storage cages.

Staff recommends the Commission approve the contract and authorize the Executive Director to sign it on behalf of the Commission.

# DISCLOSURE OF OWNERSHIP/PRINCIPALS

Corporate/Business Entity Name: <u>ESCI Inc</u>	
"Doing Business As" (if applicable):	
Street Address: <u>PO Box 2822</u>	Website: <u>www.esci.net</u>
City, State and Zip Code: <u>Bellingham WA 98227</u>	POC Name and Email: <u>Brian@esci.net</u>
Telephone Number: <u>360-676-8088</u>	Fax Number:
Local Street Address: <u>247 Afterglow Dr</u>	Website: <u>www.esci.net</u>
City, State and Zip Code: <u>FRIDAY HARBOR WA 98257</u>	Local Fax Number:
Local Telephone Number: <u>360-676-8088</u>	Local POC Name and Email:

All entities, with the exception of publicly-traded and non-profit organizations, must list the names of individuals holding more than five percent (5%) ownership or financial interest in the business entity appearing before the CRCNV.

Publicly-traded entities and non-profit organizations shall list all Corporate Officers and Directors in lieu of disclosing the names of individuals with ownership or financial interest.

Entities include all business associations organized under or governed by Title 7 of the Nevada Revised Statutes, including but not limited to private corporations, close corporations, foreign corporations, limited liability companies, partnerships, limited partnerships, and professional corporations.

Full Name	Title	% Owned (Not required for Publicly Traded Corporations/Non-profit organizations)
<u>BRIAN ERGA</u>	<u>PRESIDENT</u>	<u>100%</u>

## This section is not required for publicly-traded corporations.

- Are any individual members, partners, owners or principals, involved in the business entity, a CRCNV full-time employee(s), or appointed/elected official(s)?  
☐ Yes ☒ No (If yes, please note that CRCNV employee(s), or appointed/elected official(s) may not perform any work on professional service contracts, or other contracts, which are not subject to competitive bid.)
- Do any individual members, partners, owners or principals have a spouse, registered domestic partner, child, parent, in-law or brother/sister, half-brother/half-sister, grandchild, grandparent, related to a CRCNV full-time employee(s), or appointed/elected official(s)?  
☐ Yes ☒ No (If yes, please complete the Disclosure of Relationship form on Page 2. If no, please print N/A on Page 2.)

I certify under penalty of perjury, that all of the information provided herein is current, complete and accurate. I also understand that the CRCNV will not take action on items agendized without the completed disclosure form.

Signature

Brian Erga

Print Name

BRIAN ERGA

Title

PRESIDENT

Date

3/31/20

## DISCLOSURE OF RELATIONSHIP

List any disclosures below:

(Mark N/A, if not applicable.)

NAME OF BUSINESS OWNER/PRINCIPAL	NAME OF CRCNV EMPLOYEE/OFFICIAL AND JOB TITLE	RELATIONSHIP TO CRCNV EMPLOYEE/ OFFICIAL
N/A		

"Consanguinity" is a relationship by blood. "Affinity" is a relationship by marriage.

"To the second degree of consanguinity" applies to the candidate's first and second degree of blood relatives as follows:

- Spouse – Registered Domestic Partners – Children – Parents – In-laws (first degree)
- Brothers/Sisters – Half-Brothers/Half-Sisters – Grandchildren – Grandparents – In-laws (second degree)

---

**For CRCNV Use Only:**

If any Disclosure of Relationship is noted above, please complete the following:

- ☐ Yes ☐ No Is the CRCNV employee(s) noted above involved in the contracting/selection process for this particular agenda item?
- ☐ Yes ☐ No Is the CRCNV employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name (Authorized Department Representative)

## DISCLOSURE OF RELATIONSHIP

### ***For CRCNV Use Only:***

If any Disclosure of Relationship is noted above, please complete the following:

☐ Yes ☐ No Is the CRCNV employee(s) noted above involved in the contracting/selection process for this particular agenda item?

☐ Yes ☐ No Is the CRCNV employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name (Authorized Department Representative)

---

### ***For CRCNV Use Only:***

If any Disclosure of Relationship is noted above, please complete the following:

☐ Yes ☐ No Is the CRCNV employee(s) noted above involved in the contracting/selection process for this particular agenda item?

☐ Yes ☐ No Is the CRCNV employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name (Authorized Department Representative)

---

### ***For CRCNV Use Only:***

If any Disclosure of Relationship is noted above, please complete the following:

☐ Yes ☐ No Is the CRCNV employee(s) noted above involved in the contracting/selection process for this particular agenda item?

☐ Yes ☐ No Is the CRCNV employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name (Authorized Department Representative)

**CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR**

A Contract Between the State of Nevada

Acting by and Through its

Agency Name:	Colorado River Commission of Nevada
Address:	555 E. Washington Avenue, Suite 3100
City, State, Zip Code:	Las Vegas, NV 89101
Contact:	Robert Reese
Phone:	702-682-6972
Fax:	702-856-3617
Email:	breese@crc.nv.gov

Contractor Name:	ESCI, Inc.
Address:	PO Box 2822
City, State, Zip Code:	Bellingham, WA 98227
Contact:	Brian Erga
Phone:	360-676-8088
Email:	<a href="mailto:brian@esci.net">brian@esci.net</a>

WHEREAS, NRS 333.700 authorizes officers, departments, institutions, boards, commissions, and other agencies in the Executive Department of the State Government which derive their support from public money in whole or in part to engage, subject to the approval of the Board of Examiners (BOE), services of persons as independent contractors; and

WHEREAS, it is deemed that the service of Contractor is both necessary and in the best interests of the State of Nevada.

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. **REQUIRED APPROVAL.** This Contract shall not become effective until and unless approved by the Nevada State Board of Examiners.
2. **DEFINITIONS.**
  - A. "State" – means the State of Nevada and any State agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307.
  - B. "Contracting Agency" – means the State agency identified above.
  - C. "Contractor" – means the person or entity identified above that performs services and/or provides goods for the State under the terms and conditions set forth in this Contract.
  - D. "Fiscal Year" – means the period beginning July 1st and ending June 30th of the following year.
  - E. "Contract" – Unless the context otherwise requires, "Contract" means this document entitled Contract for Services of Independent Contractor and all Attachments or Incorporated Documents.
  - F. "Contract for Independent Contractor" – means this document entitled Contract for Services of Independent Contractor exclusive of any Attachments or Incorporated Documents.

3. **CONTRACT TERM.** This Contract shall be effective as noted below, unless sooner terminated by either party as specified in *Section 10, Contract Termination*. Contract is subject to Board of Examiners' approval.

4.

Effective from:	Upon BOE Approval	To:	April 30, 2024
-----------------	-------------------	-----	----------------

5. **NOTICE.** All communications, including notices, required or permitted to be given under this Contract shall be in writing and directed to the parties at the addresses stated above. Notices may be given: (i) by delivery in person; (ii) by a nationally recognized next day courier service, return receipt requested; or (iii) by certified mail, return receipt requested. If specifically requested by the party to be notified, valid notice may be given by facsimile transmission or electronic mail to the address(es) such party has specified in writing.

6. **INCORPORATED DOCUMENTS.** The parties agree that this Contract, inclusive of the following attachments, specifically describes the scope of work. This Contract incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT AA:	SCOPE OF WORK
ATTACHMENT BB:	INSURANCE SCHEDULE
ATTACHMENT CC:	STATE SOLICITATION OR RFP # 69CRC-S974
ATTACHMENT DD:	CONTRACTOR'S RESPONSE

Any provision, term or condition of an Attachment that contradicts the terms of this Contract for Independent Contractor, or that would change the obligations of the State under this Contract for Independent Contractor, shall be void and unenforceable.

7. **CONSIDERATION.** The parties agree that Contractor will provide the services specified in *Section 5, Incorporated Documents* at a cost as noted below:

Total Contract Not to Exceed:	\$259,600.00
-------------------------------	--------------

The State does not agree to reimburse Contractor for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the result of legislative appropriation may require.

8. **ASSENT.** The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations specified.
9. **BILLING SUBMISSION: TIMELINESS.** The parties agree that timeliness of billing is of the essence to the Contract and recognize that the State is on a Fiscal Year. All billings for dates of service prior to July 1 must be submitted to the state no later than the first Friday in August of the same calendar year. A billing submitted after the first Friday in August, which forces the State to process the billing as a stale claim pursuant to NRS 353.097, will subject Contractor to an administrative fee not to exceed one hundred dollars (\$100.00). The parties hereby agree this is a reasonable estimate of the additional costs to the state of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to Contractor.

10. **INSPECTION & AUDIT.**

- A. **Books and Records.** Contractor agrees to keep and maintain under generally accepted accounting principles (GAAP) full, true and complete records, contracts, books, and documents as are necessary to fully disclose to the State or

United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all State and federal regulations and statutes.

- B. Inspection & Audit. Contractor agrees that the relevant books, records (written, electronic, computer related or otherwise), including, without limitation, relevant accounting procedures and practices of Contractor or its subcontractors, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Contractor where such records may be found, with or without notice by the State Auditor, the relevant State agency or its contracted examiners, the department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the state Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives. All subcontracts shall reflect requirements of this Section.
- C. Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained a minimum three (3) years, and for five (5) years if any federal funds are used pursuant to the Contract. The retention period runs from the date of payment for the relevant goods or services by the state, or from the date of termination of the Contract, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

## 11. CONTRACT TERMINATION.

- A. Termination Without Cause. Regardless of any terms to the contrary, this Contract may be terminated upon written notice by mutual consent of both parties. The State unilaterally may terminate this contract without cause by giving not less than thirty (30) days' notice in the manner specified in *Section 4, Notice*. If this Contract is unilaterally terminated by the State, Contractor shall use its best efforts to minimize cost to the State and Contractor will not be paid for any cost that Contractor could have avoided.
- B. State Termination for Non-Appropriation. The continuation of this Contract beyond the current biennium is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the State Legislature and/or federal sources. The State may terminate this Contract, and Contractor waives any and all claims(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the contracting Agency's funding from State and/or federal sources is not appropriated or is withdrawn, limited, or impaired.
- C. Termination with Cause for Breach. A breach may be declared with or without termination. A notice of breach and termination shall specify the date of termination of the Contract, which shall not be sooner than the expiration of the Time to Correct, if applicable, allowed under subsection 10D. This Contract may be terminated by either party upon written notice of breach to the other party on the following grounds:
- 1) If Contractor fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or
  - 2) If any state, county, city, or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or
  - 3) If Contractor becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the Bankruptcy Court; or
  - 4) If the State materially breaches any material duty under this Contract and any such breach impairs Contractor's ability to perform; or
  - 5) If it is found by the State that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the State of Nevada with a view toward securing a contract or securing favorable treatment with



respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or

- 6) If it is found by the State that Contractor has failed to disclose any material conflict of interest relative to the performance of this Contract.

D. **Time to Correct.** Unless the breach is not curable, or unless circumstances do not permit an opportunity to cure, termination upon declared breach may be exercised only after service of formal written notice as specified in *Section 4, Notice*, and the subsequent failure of the breaching party within fifteen (15) calendar days of receipt of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared breach has been corrected. Upon a notice of breach, the time to correct and the time for termination of the contract upon breach under subsection 10C, above, shall run concurrently, unless the notice expressly states otherwise.

E. **Winding Up Affairs Upon Termination.** In the event of termination of this Contract for any reason, the parties agree that the provisions of this Section survive termination:

- 1) The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
- 2) Contractor shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by the Contracting Agency;
- 3) Contractor shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by the Contracting Agency;
- 4) Contractor shall preserve, protect and promptly deliver into State possession all proprietary information in accordance with *Section 21, State Ownership of Proprietary Information*.

12. **REMEDIES.** 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 attorneys' fees and costs. For purposes of an award of attorneys' fees to either party, the parties stipulate and agree that a reasonable hourly rate of attorneys' fees shall be one hundred and fifty dollars (\$150.00) per hour. The State may set off consideration against any unpaid obligation of Contractor to any State agency in accordance with NRS 353C.190. In the event that Contractor voluntarily or involuntarily becomes subject to the jurisdiction of the Bankruptcy Court, the State may set off consideration against any unpaid obligation of Contractor to the State or its agencies, to the extent allowed by bankruptcy law, without regard to whether the procedures of NRS 353C.190 have been utilized.

13. **LIMITED LIABILITY.** The State will not waive and intends to assert available NRS Chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Damages for any State breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to Contractor, for the Fiscal Year budget in existence at the time of the breach. Contractor's tort liability shall not be limited.

14. **FORCE MAJEURE.** 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.

15. **INDEMNIFICATION AND DEFENSE.** To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend, not excluding the State's right to participate, the State from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any breach of the obligations of Contractor under this contract, or any alleged negligent or willful acts or omissions of Contractor, its officers, employees and agents. Contractor's obligation to indemnify the State shall apply in all cases except for claims arising solely from the State's own negligence or willful misconduct. Contractor waives any rights of

subrogation against the State. Contractor's duty to defend begins when the State requests defense of any claim arising from this Contract.

16. **REPRESENTATIONS REGARDING INDEPENDENT CONTRACTOR STATUS.** Contractor represents that it is an independent contractor, as defined in NRS 333.700(2) and 616A.255, warrants that it will perform all work under this contract as an independent contractor, and warrants that the State of Nevada will not incur any employment liability by reason of this Contract or the work to be performed under this Contract. To the extent the State incurs any employment liability for the work under this Contract; Contractor will reimburse the State for that liability.
17. **INSURANCE SCHEDULE.** Unless expressly waived in writing by the State, Contractor must carry policies of insurance and pay all taxes and fees incident hereunto. Policies shall meet the terms and conditions as specified within this Contract along with the additional limits and provisions as described in *Attachment BB*, incorporated hereto by attachment. The State shall have no liability except as specifically provided in the Contract.

Contractor shall not commence work before Contractor has provided the required evidence of insurance to the Contracting Agency. The State's approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent to this Contract. Any failure of the State to timely approve shall not constitute a waiver of the condition.

- A. **Insurance Coverage.** Contractor shall, at Contractor's sole expense, procure, maintain and keep in force for the duration of the Contract insurance conforming to the minimum limits as specified in *Attachment BB*, incorporated hereto by attachment. Unless specifically stated herein or otherwise agreed to by the State, the required insurance shall be in effect prior to the commencement of work by Contractor and shall continue in force as appropriate until:

- 1) Final acceptance by the State of the completion of this Contract; or
- 2) Such time as the insurance is no longer required by the State under the terms of this Contract; whichever occurs later.

Any insurance or self-insurance available to the State shall be in excess of and non-contributing with, any insurance required from Contractor. Contractor's insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by the State, Contractor shall provide the State with renewal or replacement evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as Contractor has knowledge of any such failure, Contractor shall immediately notify the State and immediately replace such insurance or bond with an insurer meeting the requirements.

**B. General Requirements.**

- 1) **Additional Insured:** By endorsement to the general liability insurance policy, the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 shall be named as additional insureds for all liability arising from the Contract.
- 2) **Waiver of Subrogation:** Each insurance policy shall provide for a waiver of subrogation against the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 for losses arising from work/materials/equipment performed or provided by or on behalf of Contractor.
- 3) **Cross Liability:** All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.
- 4) **Deductibles and Self-Insured Retentions:** Insurance maintained by Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by the State. Such approval shall not relieve Contractor from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed fifty thousand dollars (\$50,000.00) per occurrence, unless otherwise approved by the Risk Management Division.
- 5) **Policy Cancellation:** Except for ten (10) days notice for non-payment of premiums, each insurance policy shall be endorsed to state that without thirty (30) days prior written notice to the State of Nevada, c/o Contracting

Agency, the policy shall not be canceled, non-renewed or coverage and/or limits reduced or materially altered, and shall provide that notices required by this Section shall be sent by certified mail to the address shown on page one (1) of this contract.

6) Approved Insurer: Each insurance policy shall be:

- a) Issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers acceptable to the State and having agents in Nevada upon whom service of process may be made; and
- b) Currently rated by A.M. Best as "A-VII" or better.

C. Evidence of Insurance.

Prior to the start of any work, Contractor must provide the following documents to the contracting State agency:

- 1) Certificate of Insurance: The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to the State to evidence the insurance policies and coverages required of Contractor. The certificate must name the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 as the certificate holder. The certificate should be signed by a person authorized by the insurer to bind coverage on its behalf. The State project/Contract number; description and Contract effective dates shall be noted on the certificate, and upon renewal of the policies listed, Contractor shall furnish the State with replacement certificates as described within *Section 16A, Insurance Coverage*.

**Mail all required insurance documents to the State Contracting Agency identified on Page one of the Contract.**

- 2) Additional Insured Endorsement: An Additional Insured Endorsement (CG 20 10 11 85 or CG 20 26 11 85), signed by an authorized insurance company representative, must be submitted to the State to evidence the endorsement of the State as an additional insured per *Section 16B, General Requirements*.
- 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.
- 4) Review and Approval: Documents specified above must be submitted for review and approval by the State prior to the commencement of work by Contractor. Neither approval by the State nor failure to disapprove the insurance furnished by Contractor shall relieve Contractor of Contractor's full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of Contractor or its subcontractors, employees or agents to the State or others, and shall be in addition to and not in lieu of any other remedy available to the State under this Contract or otherwise. The State reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

18. **COMPLIANCE WITH LEGAL OBLIGATIONS.** Contractor 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 Contractor to provide the goods or services required by this Contract. Contractor shall provide proof of its compliance upon request of the Contracting Agency. Contractor will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Real property and personal property taxes are the responsibility of Contractor in accordance with NRS 361.157 and NRS 361.159. Contractor agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract.

19. **WAIVER OF BREACH.** Failure to declare a breach or the actual waiver of any particular breach of the 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 State, such offending portion of the assignment shall be void, and shall be a breach of this Contract. Contractor shall neither assign, transfer nor delegate any rights, obligations nor duties under this Contract without the prior written consent of the State.
22. **STATE OWNERSHIP OF PROPRIETARY INFORMATION.** Any data or information provided by the State to Contractor and any documents or materials provided by the State to Contractor in the course of this Contract ("State Materials") shall be and remain the exclusive property of the State and all such State Materials shall be delivered into State possession by Contractor upon completion, termination, or cancellation of this Contract.
23. **PUBLIC RECORDS.** Pursuant to NRS 239.010, information or documents received from Contractor may be open to public inspection and copying. The State has a legal obligation to disclose such information unless a particular record is made confidential by law or a common law balancing of interests. Contractor may label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 333.333, provided that Contractor thereby agrees to indemnify and defend the State for honoring such a designation. The failure to so label any document that is released by the State shall constitute a complete waiver of any and all claims for damages caused by any release of the records.
24. **CONFIDENTIALITY.** Contractor shall keep confidential all information, in whatever form, produced, prepared, observed or received by Contractor to the extent that such information is confidential by law or otherwise required by this Contract.
25. **FEDERAL FUNDING.** In the event federal funds are used for payment of all or part of this Contract, Contractor agrees to comply with all applicable federal laws, regulations and executive orders, including, without limitation the following:
- A. Contractor certifies, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to Executive Orders 12549 and 12689 and Federal Acquisition Regulation subpart 9.4, and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.
  - B. Contractor and its subcontracts shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder, including 28 C.F.R. Section 35, inclusive, and any relevant program-specific regulations.
  - C. Contractor and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964 (P.L. 88-352), as amended, the Rehabilitation Act of 1973 (P.L. 93-112), as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)
26. **LOBBYING.** The parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this Contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:
- A. Any federal, state, county or local agency, legislature, commission, council or board;
  - B. Any federal, state, county or local legislator, commission member, council member, board member, or other elected official; or
  - C. Any officer or employee of any federal, state, county or local agency; legislature, commission, council or board.
27. **GENERAL WARRANTY.** Contractor warrants that all services, deliverables, and/or work products under this Contract shall be completed in a workmanlike manner consistent with standards in the trade, profession, or industry; shall conform

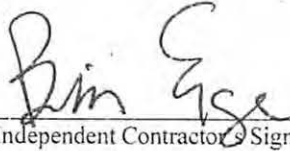
to or exceed the specifications set forth in the incorporated attachments; and shall be fit for ordinary use, of good quality, with no material defects.

28. **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. Contractor acknowledges that as required by statute or regulation this Contract is effective only after approval by the State Board of Examiners and only for the period of time specified in the Contract. Any services performed by Contractor before this Contract is effective or after it ceases to be effective are performed at the sole risk of Contractor.
29. **DISCLOSURES REGARDING CURRENT OR FORMER STATE EMPLOYEES.** For the purpose of State compliance with NRS 333.705, Contractor represents and warrants that if Contractor, or any employee of Contractor who will be performing services under this Contract, is a current employee of the State or was employed by the State within the preceding 24 months, Contractor has disclosed the identity of such persons, and the services that each such person will perform, to the Contracting Agency.
30. **ASSIGNMENT OF ANTITRUST CLAIMS.** Contractor irrevocably assigns to the State any claim for relief or cause of action which Contractor now has or which may accrue to Contractor in the future by reason of any violation of State of Nevada or federal antitrust laws in connection with any goods or services provided under this Contract.
31. **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 parties consent to the exclusive jurisdiction of and venue in the First Judicial District Court, Carson City, Nevada for enforcement of this Contract, and consent to personal jurisdiction in such court for any action or proceeding arising out of this Contract.
32. **ENTIRE CONTRACT AND MODIFICATION.** This Contract and its integrated attachment(s) constitute the entire agreement of the parties and as such are intended to be the complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements 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 the Office of the Attorney General and the State Board of Examiners. This Contract, and any amendments, may be executed in counterparts.

CETS#

RFP# 69CRC-S974

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.



Independent Contractor's Signature

3/31/20

Date



Independent Contractor's Title

State of Nevada Authorized Signature

Date

Title

State of Nevada Authorized Signature

Date

Title

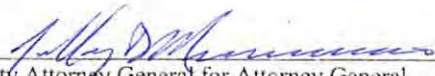
APPROVED BY BOARD OF EXAMINERS

Signature – Board of Examiners

On:

Date

Approved as to form by:



Deputy Attorney General for Attorney General

On:

6 April 20

Date

State of Nevada  
Purchasing Division  
**Scope of Work for Proposal: 69CRC-S974**  
For  
**Energized Electric System Safety Training  
and Compliance**

Release Date: February 5, 2020

**2. SCOPE OF WORK**

*Submission requirements, format and content listed in Section 8*

**2.1 Annual Safety and Wellness training:**

2.1.1 The services to be performed by the Vendor consist of the preparation of an annual safety and wellness training program that will provide monthly training seminars at the Commission's facilities and meet the requirements of OSHA 29 CFR 1910. Mandatory annual training shall include:

2.1.1.1 First Aid—the training shall be an approved program by the American Red Cross.

2.1.1.2 Annual hearing tests as required by OSHA.

**2.2 Energized Electric Safety training seminars:**

Must include the following topics:

2.2.1 Equipotential grounding

2.2.2 Underground system grounding

2.2.3 Electrical safety as required by OSHA 29 CFR 1910

2.2.4 Fire retardant clothing use and care

2.2.5 Hot stick use and care

2.2.6 Confined space entry

2.2.7 Chlorine gas respirator use and care

2.2.8 Rubber glove use and care



**2.2.9 Hazardous material communication**

**2.2.10** Optional topics directly applicable to the safety, health and wellness of individuals engaged in the operation and maintenance of a high-voltage electric system as directed by the Commission.

**2.3 Switchman Certification Program**

**2.3.1** The Vendor shall develop and provide a switchman certification program once each year during the term of the contract.

**2.3.1.1** The program shall ensure all of the Commission's personnel involved in switching are properly trained on switching procedures and methods.

**2.3.1.2** The certification program shall include classroom instruction, field switching practice, and a written exam.

**2.3.1.3** The Vendor shall maintain and provide records including dates of last certification.

**2.4 Commercial Driver License Training and Annual Compliance Activities**

**2.4.1** When requested by the Commission, the Vendor shall arrange and provide for commercial driver license training and annual compliance activities. The Vendor shall undertake the following activities:

**2.4.1.1** Purchase and deliver to the Commission six copies of the most current "Nevada CDL Course"

**2.4.1.2** Enroll and pay all tuition and program costs for six of the Commission's employees to attend behind-the-wheel training program.

**2.4.1.3** Arrange for, and pay, all costs for six of the Commission's employees to receive a physical examination meeting Department of Motor Vehicles (DMV) requirements.

**2.4.1.4** Provide all application and declaration forms to be completed by the Commission's employees in order to receive a Commercial Driver License from the DMV.

**2.5 Miscellaneous Safety Equipment and Materials**

**2.5.1** The Vendor shall arrange for, and provide, miscellaneous safety equipment and materials at the request of the Commission. Purchases shall be limited to no more than \$10,000.00 in a calendar year.

2.5.1.1 Total cost for safety equipment and materials to be listed on Item #8 within NevadaEPro.com on the Items tab.

2.5.1.2 Clearly specify the nature of all expenses anticipated by listing here a summary of anticipated equipment and materials.

## **2.6 Vendor Qualifications**

2.6.1 Must have 10 or more years of electric safety training experience.

2.6.2 Must employ safety professionals who are Certified Utility Safety Professionals (CUSP)

2.6.3 Must be members in good standing of two or more of the following organizations:

2.6.3.1 American Society for Testing and Materials (ASTM)

2.6.3.2 American Society of Safety Engineers (ASSE)

2.6.3.3 Institute of Electrical and Electronic Engineers (IEEE)

2.6.3.4 National Electric Safety Code (NESC)

2.6.3.5 National Safety Council

**INSURANCE REQUIREMENTS:**

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, his agents, representatives, employees or subcontractors and Contractor is free to purchase additional insurance as may be determined necessary.

- A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a "following form" basis.

1. **Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage and broad form contractual liability coverage.

- |   |             |
|---|-------------|
| • General Aggregate                         | \$2,000,000 |
| • Products – Completed Operations Aggregate | \$1,000,000 |
| • Personal and Advertising Injury           | \$1,000,000 |
| • Each Occurrence                           | \$1,000,000 |

- a. The policy shall be endorsed to include the following additional insured language: "The State of Nevada shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor".

2. **Automobile Liability**

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL)	\$1,000,000
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- a. The policy shall be endorsed to include the following additional insured language: "The State of Nevada shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor".

3. **Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$100,000
Disease – Each Employee	\$100,000
Disease – Policy Limit	\$500,000

- a. Policy shall contain a waiver of subrogation against the State of Nevada.
- b. This requirement shall not apply when a contractor or subcontractor is exempt under N.R.S., AND when such contractor or subcontractor executes the appropriate sole proprietor waiver form.

4. **Professional Liability (Errors and Omissions Liability)**

The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this contract.

Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000

- a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.
- B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:
1. On insurance policies where the State of Nevada, Department (Division) of \_\_\_\_\_ is named as an additional insured, the State of Nevada shall be an additional insured to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Contract.
  2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
- C. **NOTICE OF CANCELLATION:** Contractor shall for each insurance policy required by the insurance provisions of this Contract shall not be suspended, voided or canceled except after providing thirty (30) days prior written notice been given to the State, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to **((Robert D. Reese, Assistant Director of Engineering and Operations, breese@crc.nv.gov))**. Should contractor fail to provide State timely notice, contractor will be considered in breach and subject to cure provisions set forth within this contract.
- D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Nevada and with an "A.M. Best" rating of not less than A-VII. The State in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- E. **VERIFICATION OF COVERAGE:** Contractor shall furnish the State with certificates of insurance (ACORD form or equivalent approved by the State) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.
- All certificates and any required endorsements are to be received and approved by the State before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.
- All certificates required by this Contract shall be sent directly to **(Robert D. Reese, Assistant Director of Engineering and Operations, breese@crc.nv.gov)**. The State project/contract number and project description shall be noted on the certificate of insurance. The State reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.
- F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as additional insureds under its policies or Contractor shall furnish to the State separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
- G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the Risk Management Division or the Attorney General's Office, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

State of Nevada  
Department of Administration  
  
Purchasing Division  
  
515 E. Musser Street, Suite 300  
Carson City, NV 89701



State of Nevada  
Purchasing Division  
**Request for Proposal: 69CRC-S974**  
For  
**Energized Electric System Safety Training  
and Compliance**

Release Date: February 5, 2020

Deadline for Submission and Opening Date and Time: March 5, 2020 @ 2:00 PM

*Refer to Section 7, RFP Timeline for the complete RFP schedule*

For additional information, please contact:

Ryan Vradenburg, Purchasing Officer 2

State of Nevada, Purchasing Division

515 E. Musser Street, Suite 300

Carson City, NV 89701

Phone: 775-684-0197

Email address: [rvtadensburg@admin.nv.gov](mailto:rvtadensburg@admin.nv.gov)

(TTY for Deaf and Hard of Hearing: 1-800-326-6868

Ask the relay agent to dial: 1-775-684-0188V.)

*Refer to Section 8 for instructions on submitting proposals*

## VENDOR INFORMATION SHEET FOR RFP 69CRC-S974

**Vendor Shall:**

- A) Provide all requested information in the space provided next to each numbered question. The information provided in Sections V1 through V3 shall be used for development of the contract;
- B) Type or print responses; and
- C) Include this Vendor Information Sheet in Section III of the Technical Proposal.

<b>V1</b>	<b>Company Name</b>

<b>V2</b>	<b>Company Address</b>	
	Street Address:	
	City, State, Zip Code:	

<b>V3</b>	<b>Telephone Numbers</b>			
		<b>Area Code</b>	<b>Number</b>	<b>Extension</b>
	Telephone:			
	Fax:			
	Toll Free:			

<b>V4</b>	<i>Contact Person for Questions / Contract Negotiations, including address if different than above</i>	
	Name:	
	Title:	
	Address:	
	Email Address:	
	Telephone Number:	
	Fax:	

<b>V5</b>	<i>Name of Individual Authorized to Bind the Organization</i>	
	Name:	
	Title:	

<b>V6</b>	<i>Signature (Individual shall be legally authorized to bind the vendor per NRS 333.337)</i>	
	Signature:	Date:

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*Following Attachments available in NevadaEPro.com on the Attachments Tab  
of bid solicitation 69CRC-S974*

ATTACHMENT A – CONFIDENTIALITY AND CERTIFICATION OF INDEMNIFICATION  
ATTACHMENT B – VENDOR CERTIFICATIONS  
ATTACHMENT C – CONTRACT FORM  
ATTACHMENT D – INSURANCE SCHEDULE FOR RFP 69CRC-S974  
ATTACHMENT E – REFERENCE QUESTIONNAIRE  
ATTACHMENT F– PROPOSED STAFF RESUME  
ATTACHMENT G – CERTIFICATION REGARDING LOBBYING  
ATTACHMENT H – FEDERAL LAWS AND AUTHORITIES



**Prospective vendors are advised to review Nevada's ethical standards requirements, including but not limited to NRS 281A, NRS 333.800, and NAC 333.155.**

**All applicable Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC) documentation can be found at: [www.leg.state.nv.us/law1.cfm](http://www.leg.state.nv.us/law1.cfm).**

## **1. PROJECT OVERVIEW**

The State of Nevada Purchasing Division is seeking proposals from qualified vendors to provide energized electric system safety training and compliance services.

The State may award 1 or more contracts in conjunction with this RFP, as determined in the best interests of the State. The State Purchasing Division shall administer contract(s) resulting from this RFP. The resulting contract(s) shall be for an initial contract term of 4 years, anticipated to begin May 1<sup>st</sup>, 2020, subject to Board of Examiners approval, with an option to renew for two (2) additional years, if agreed upon by both parties and in the best interests of the State.

### **1.1 GOALS AND OBJECTIVES**

The Colorado River Commission of Nevada (CRCNV) owns and operates high-voltage transmission and distribution facilities in southern Nevada. The CRCNV employs a staff of managers, engineers, technicians and electricians and desires to ensure these employees are trained in the hazards associated with the operation and maintenance of the energized electric system and on proper mitigation measures, procedures and tools. The CRCNV is seeking proposals for energized electric system safety training and compliance services that meet the requirements established by OSHA 29 CFR 1910. Proposals are sought from qualified contractors that have an established record of providing safety and wellness training, switchman certification, and commercial driver's license instruction programs.

## **2. SCOPE OF WORK**

*Submission requirements, format and content listed in Section 8*

### **2.1 Annual Safety and Wellness training:**

2.1.1 The services to be performed by the Vendor consist of the preparation of an annual safety and wellness training program that will provide monthly training seminars at the Commission's facilities and meet the requirements of OSHA 29 CFR 1910. Mandatory annual training shall include:

2.1.1.1 First Aid—the training shall be an approved program by the American Red Cross.

2.1.1.2 Annual hearing tests as required by OSHA.

### **2.2 Energized Electric Safety training seminars:**

Must include the following topics:

2.2.1 Equipotential grounding

- 2.2.2      Underground system grounding
- 2.2.3      Electrical safety as required by OSHA 29 CFR 1910
- 2.2.4      Fire retardant clothing use and care
- 2.2.5      Hot stick use and care
- 2.2.6      Confined space entry
- 2.2.7      Chlorine gas respirator use and care
- 2.2.8      Rubber glove use and care
- 2.2.9      Hazardous material communication
- 2.2.10     Optional topics directly applicable to the safety, health and wellness of individuals engaged in the operation and maintenance of a high-voltage electric system as directed by the Commission.

### **2.3      Switchman Certification Program**

- 2.3.1      The Vendor shall develop and provide a switchman certification program once each year during the term of the contract.
  - 2.3.1.1     The program shall ensure all of the Commission's personnel involved in switching are properly trained on switching procedures and methods.
  - 2.3.1.2     The certification program shall include classroom instruction, field switching practice, and a written exam.
  - 2.3.1.3     The Vendor shall maintain and provide records including dates of last certification.

### **2.4      Commercial Driver License Training and Annual Compliance Activities**

- 2.4.1      When requested by the Commission, the Vendor shall arrange and provide for commercial driver license training and annual compliance activities. The Vendor shall undertake the following activities:
  - 2.4.1.1     Purchase and deliver to the Commission six copies of the most current "Nevada CDL Course"
  - 2.4.1.2     Enroll and pay all tuition and program costs for six of the Commission's employees to attend behind-the-wheel training program.

2.4.1.3 Arrange for, and pay, all costs for six of the Commission's employees to receive a physical examination meeting Department of Motor Vehicles (DMV) requirements.

2.4.1.4 Provide all application and declaration forms to be completed by the Commission's employees in order to receive a Commercial Driver License from the DMV.

## **2.5 Miscellaneous Safety Equipment and Materials**

2.5.1 The Vendor shall arrange for, and provide, miscellaneous safety equipment and materials at the request of the Commission. Purchases shall be limited to no more than \$10,000.00 in a calendar year.

2.5.1.1 Total cost for safety equipment and materials to be listed on Item #8 within NevadaEPro.com on the Items tab.

2.5.1.2 Clearly specify the nature of all expenses anticipated by listing here a summary of anticipated equipment and materials.

## **2.6 Vendor Qualifications**

2.6.1 Must have 10 or more years of electric safety training experience.

2.6.2 Must employ safety professionals who are Certified Utility Safety Professionals (CUSP)

2.6.3 Must be members in good standing of two or more of the following organizations:

2.6.3.1 American Society for Testing and Materials (ASTM)

2.6.3.2 American Society of Safety Engineers (ASSE)

2.6.3.3 Institute of Electrical and Electronic Engineers (IEEE)

2.6.3.4 National Electric Safety Code (NESC)

2.6.3.5 National Safety Council

## **3. COMPANY BACKGROUND AND REFERENCES**

### **3.1 VENDOR INFORMATION**

3.1.1 Vendors shall provide a company profile in the table format below.

<b>Question</b>	<b>Response</b>
Company name:	
Ownership (sole proprietor, partnership, etc.):	
State of incorporation:	

Question	Response
Date of incorporation:	
# of years in business:	
List of top officers:	
Location of company headquarters, to include City and State:	
Location(s) of the office that shall provide the services described in this RFP:	
Number of employees locally with the expertise to support the requirements identified in this RFP:	
Number of employees nationally with the expertise to support the requirements in this RFP:	
Location(s) from which employees shall be assigned for this project:	

- 3.1.2 Pursuant to NRS 333.3354, the State of Nevada awards a five percent (5%) preference to a vendor certifying that its principal place of business is in Nevada. The term 'principal place of business' has the meaning outlined by the United States Supreme Court in Hertz Corp v. Friend, 559 U.S. 77 (2010), typically meaning a company's corporate headquarters. This preference cannot be combined with any other preference, granted for the award of a contract using federal funds, or granted for the award of a contract procured on a multi-state basis. To claim this preference a business must submit a letter with its proposal showing that it qualifies for the preference.
- 3.1.3 **Please be advised**, pursuant to NRS 80.010, a corporation organized pursuant to the laws of another state shall register with the State of Nevada, Secretary of State's Office as a foreign corporation before a contract can be executed between the State of Nevada and the awarded vendor, unless specifically exempted by NRS 80.015.
- 3.1.4 The selected vendor, prior to doing business in the State of Nevada, shall be appropriately licensed by the State of Nevada, Secretary of State's Office pursuant to NRS 76. Information regarding the Nevada Business License can be located at <http://nvsos.gov>.

Question	Response
Nevada Business License Number:	
Legal Entity Name:	

Is "Legal Entity Name" the same name as vendor is doing business as?

Yes		No	
-----	--	----	--

If "No", provide explanation.

- 3.1.5 Has the vendor ever been engaged under contract by any State of Nevada agency?

Yes		No	
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If "Yes", complete the following table for each State agency for whom the work was performed. Table can be duplicated for each contract being identified.

Question	Response
Name of State agency:	
State agency contact name:	
Dates when services were performed:	
Type of duties performed:	
Total dollar value of the contract:	

- 3.1.6 Are you now or have you been within the last two (2) years an employee of the State of Nevada, or any of its agencies, departments, or divisions?

Yes		No	
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If "Yes", please explain when the employee is planning to render services, while on annual leave, compensatory time, or on their own time?

If you employ (a) any person who is a current employee of an agency of the State of Nevada, or (b) any person who has been an employee of an agency of the State of Nevada within the past two (2) years, and if such person shall be performing or producing the services which you shall be contracted to provide under this contract, you shall disclose the identity of each such person in your response to this RFP, and specify the services that each person shall be expected to perform.

- 3.1.7 Disclosure of any significant prior or ongoing contract failures, contract breaches, civil or criminal litigation in which the vendor has been alleged to be liable or held liable in a matter involving a contract with the State of Nevada or any other governmental entity. Any pending claim or litigation occurring within the past six (6) years which may adversely affect the vendor's ability to perform or fulfill its obligations if a contract is awarded as a result of this RFP shall also be disclosed.

Does any of the above apply to your company?

Yes		No	
-----	--	----	--

If "Yes", please provide the following information. Table can be duplicated for each issue being identified.

Question	Response
Date of alleged contract failure or breach:	
Parties involved:	

Question	Response	
Description of the contract failure, contract breach, or litigation, including the products or services involved:		
Amount in controversy:		
Resolution or current status of the dispute:		
If the matter has resulted in a court case:	Court	Case Number
Status of the litigation:		

- 3.1.8 Vendors shall review and provide if awarded a contract the insurance requirements as specified in *Attachment D, Insurance Schedule for RFP 69CRC-S974*
- 3.1.9 Company background/history and why vendor is qualified to provide the services described in this RFP. Limit response to no more than five (5) pages.
- 3.1.10 Provide a brief description of the length of time vendor has been providing services described in this RFP to the public and/or private sector.
- 3.1.11 If needed, any personal identification information, financial information and documentation to be included in accordance with *Section 8.5, Part III – Confidential Financial Information*.

## 3.2 SUBCONTRACTOR INFORMATION

Subcontractors are defined as a third party, not directly employed by the contractor, who shall provide services identified in this RFP. This does not include third parties who provide support or incidental services to the contractor.

- 3.2.1 Does this proposal include the use of subcontractors?

Yes		No	
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If “Yes”, vendor shall:

- 3.2.1.1 Identify specific subcontractors and the specific requirements of this RFP for which each proposed subcontractor shall perform services.
- 3.2.1.2 If any tasks are to be completed by subcontractor(s), vendors shall:
- A. Describe how the work of any subcontractor(s) shall be supervised, channels of communication shall be maintained and compliance with contract terms assured; and

B. Describe your previous experience with subcontractor(s).

3.2.1.3 Provide the same information for any proposed subcontractors as requested in **Section 3.1, Vendor Information**.

3.2.1.4 Vendor shall not allow any subcontractor to commence work until all insurance required of the subcontractor is provided to the vendor.

3.2.1.5 Vendor shall notify the using agency of the intended use of any subcontractors not identified within their original proposal and provide the information originally requested in the RFP in **Section 3.2, Subcontractor Information**. The vendor shall receive agency approval prior to subcontractor commencing work.

### **3.3 BUSINESS REFERENCES**

3.3.1 Vendors shall provide a minimum of three (3) business references from similar projects performed for private and/or public sector clients within the last three (3) years.

3.3.2 Vendors shall submit **Attachment E, Reference Questionnaire** to their business references.

3.3.3 It is the vendor's responsibility to ensure that completed forms are received by the Purchasing Division on or before the deadline as specified in **Section 7, RFP Timeline** for inclusion in the evaluation process. Reference Questionnaires not received, or not complete, may adversely affect the vendor's score in the evaluation process.

3.3.4 The State reserves the right to contact and verify any and all references listed regarding the quality and degree of satisfaction for such performance.

### **3.4 VENDOR STAFF RESUMES**

3.4.1 A resume shall be completed for each proposed key personnel responsible for performance under any contract resulting from this RFP per **Attachment F, Proposed Staff Resume**.

3.4.1.1 Five (5) years of experience in training Electrical Personnel.

## **4. COST**

Vendors must provide detailed fixed prices for all costs associated with the responsibilities and related services.

4.1 Costs must be entered as requested on the Items tab within NevadaEPro.com.

4.2 Costs not submitted within NevadaEPro.com on the Items tab may render a vendor's entire proposal nonresponsive.

## **5. FINANCIAL**



## **5.1 PAYMENT**

- 5.1.1 Upon review and acceptance by the State, payments for invoices are normally made within 45 – 60 days of receipt, providing all required information, documents and/or attachments have been received.
- 5.1.2 Pursuant to NRS 227.185 and NRS 333.450, the State shall pay claims for supplies, materials, equipment and services purchased under the provisions of this RFP electronically, unless determined by the State Controller that the electronic payment would cause the payee to suffer undue hardship or extreme inconvenience.

## **5.2 BILLING**

- 5.2.1 The State does not issue payment prior to receipt of goods or services.
- 5.2.2 The vendor shall bill the State as outlined in the approved contract and/or payment schedule.
- 5.2.3 The State presently has a Procurement Card Program that participating State agencies may use to pay for some of their purchases. The Program is issued through a major financial institution and is treated like any other major credit card. Using agencies may desire to use the card as a method of payment. No additional charges or fees shall be imposed for using the card. Please indicate in your proposal response if you will accept this method of payment.

## **5.3 TIMELINESS OF BILLING**

The State is on a fiscal year calendar. All billings for dates of service prior to July 1 shall be submitted to the State no later than the first Friday in August of the same year. A billing submitted after the first Friday in August that forces the State to process the billing as a stale claim pursuant to NRS 353.097, shall subject the contractor to an administrative fee not to exceed \$100.00. This is the estimate of the additional costs to the State for processing the billing as a stale claim and this amount shall be deducted from the stale claims' payment due the contractor.

## **6. WRITTEN QUESTIONS AND ANSWERS**

The Purchasing Division shall accept questions and/or comments in writing regarding this RFP as noted below:

### **6.1 QUESTIONS AND ANSWERS**

- 6.1.1 All questions regarding this RFP should be submitted using the Bid Q&A feature in *NevadaEPro*.

- 6.1.1.1 To access the Bid Q&A:

- A. Log into your Seller account on *NevadaEPro*.

- B. Click the Bids Tab in the header.
- C. Click View under Bid Q&A on the appropriate Bid Solicitation under the Open Bids section.

- 6.1.2 The deadline for submitting questions is as specified in ***Section 7, RFP Timeline***.
- 6.1.3 All questions and/or comments shall be addressed using the Bid Q&A in ***NevadaEPro***. If questions and answers require a material change to the Bid Solicitation, an Amendment will be posted in ***NevadaEPro*** and you will receive email notification.

## 7. RFP TIMELINE

The following represents the proposed timeline for this project. All times stated are Pacific Time (PT). These dates represent a tentative schedule of events. The State reserves the right to modify these dates at any time.

Task	Date/Time
Deadline for submitting questions	02/14/2020 @ 4:30 PM
Answers posted to website	On or about 02/18/2020
Deadline for submittal of Reference Questionnaires	No later than 4:30 PM on 02/18/2020
Deadline for submission and opening of proposals	No later than 2:00 PM on 03/05/2020
Evaluation period (approximate time frame)	03/05/2020 – 03/13/2020
Selection of vendor	On or about 03/13/2020
Anticipated BOE approval	05/12/2020
Contract start date	Upon BOE Approval

## 8. PROPOSAL SUBMISSION REQUIREMENTS, FORMAT AND CONTENT

### 8.1 GENERAL SUBMISSION REQUIREMENTS

- 8.1.1 Vendors shall submit their proposals by using Create Quote through the State electronic procurement website, <https://NevadaEPro.com>, in accordance with the instructions below.
  - 8.1.1.1 Refer to ***Instructions for Vendors Responding to a Bid*** in the Important Links section on the front page of ***NevadaEPro*** for instructions on how to submit a Quote using ***NevadaEPro***.
- 8.1.2 The Quote/Proposal shall contain a maximum of four (4) attachments which may include:

- 8.1.2.1 Technical Proposal
- 8.1.2.2 Confidential Technical (if applicable)
- 8.1.2.3 Cost Proposal (if applicable)
- 8.1.2.4 Confidential Financial (if applicable)

**Note:** Under the Items Tab the NevadaEPro system defaults to 'No Bid'. Proposing vendors must uncheck the 'No Bid' box and that will allow the system to default to 'See Quote Attachments'.

- 8.1.3 Proposals shall have a technical response, which may be composed of two (2) parts in the event a vendor determines that a portion of their technical response qualifies as "confidential" per NRS 333.020 (5) (b).
- 8.1.4 If complete responses cannot be provided without referencing confidential information, such confidential information shall be provided in accordance with ***Section 8.3, Part IB – Confidential Technical Proposal*** and ***Section 8.5, Part III Confidential Financial Information***.
- 8.1.5 Specific references made to the section, page, and paragraph where the confidential information can be located shall be identified on ***Attachment A, Confidentiality and Certification of Indemnification*** and comply with the requirements stated in ***Section 8.6, Confidentiality of Proposals***.
- 8.1.6 Proposals that do not comply with the requirements may be deemed non-responsive and rejected at the State's discretion.
- 8.1.7 Although it is a public opening, only the names of the vendors submitting proposals shall be announced per NRS 333.335(6). Technical and cost details about proposals submitted shall not be disclosed.
- 8.1.8 Assistance for persons who are disabled, visually impaired or hearing-impaired who wish to attend the RFP opening is available. If special arrangements are necessary, please notify the Purchasing Division designee as soon as possible and at least two (2) days in advance of the opening.
- 8.1.9 For ease of evaluation, the technical and cost proposals shall be presented in a format that corresponds to and references sections outlined within this RFP and shall be presented in the same order. Written responses shall be in ***bold/italics*** and placed immediately following the applicable RFP question, statement and/or section.
- 8.1.10 Proposals are to be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFP. Expensive color displays, promotional materials, etc., are not necessary or desired. Emphasis shall be concentrated on conformance to the RFP instructions, responsiveness to the RFP requirements, and on completeness and clarity of content.
- 8.1.11 For purposes of addressing questions concerning this RFP, the sole contact shall be the Purchasing Division as specified on Page 1 of this RFP. Upon issuance of this RFP, other employees and representatives of the agencies identified in the

RFP shall not answer questions or otherwise discuss the contents of this RFP with any prospective vendors or their representatives. Failure to observe this restriction may result in disqualification of any subsequent proposal per NAC 333.155(3). This restriction does not preclude discussions between affected parties for the purpose of conducting business unrelated to this procurement.

- 8.1.12 Any vendor who believes there are irregularities or lack of clarity in the RFP or proposal requirements or specifications are unnecessarily restrictive, or limit competition shall notify the Purchasing Division, in writing, as soon as possible, so that corrective addenda may be furnished by the Purchasing Division in a timely manner to all vendors.
- 8.1.13 If a vendor changes any material RFP language, vendor's response may be deemed non-responsive per NRS 333.311.
- 8.1.14 The vendor understands and acknowledges that the representations made in its proposal are material and important and shall be relied on by the State in its evaluation of a proposal. Any misrepresentation by a vendor shall be treated as fraudulent concealment from the State of the true facts relating to the proposal.

## 8.2 PART IA – TECHNICAL PROPOSAL

- 8.2.1 The Technical Proposal ***shall not include*** cost and/or pricing information. Cost and/or pricing information contained in the technical proposal may cause the proposal to be rejected.
- 8.2.2 Using Create Quote in *NevadaEPro*, vendors shall provide one (1) PDF Technical Proposal on the Attachments Tab that includes the following:

- 8.2.2.1 Section I – Title Page with the following information:

Part IA – Technical Proposal	
RFP Title:	Energized Electric System Safety Training and Compliance
RFP:	69CRC-S974
Vendor Name:	
Address:	
Opening Date:	March 5, 2020
Opening Time:	2:00 PM

- 8.2.2.2 Section II – Table of Contents

An accurate and updated table of contents shall be provided.

- 8.2.2.3 Section III – Vendor Information Sheet

The vendor information sheet shall be completed and signed by an individual authorized to bind the organization.

#### 8.2.2.4 Section IV – State Documents

The State documents section shall include the following:

- A. The signature page from all amendments signed by an individual authorized to bind the organization.
- B. Attachment A – Confidentiality and Certification of Indemnification signed by an individual authorized to bind the organization.
- C. Attachment B – Vendor Certifications signed by an individual authorized to bind the organization.
- D. Attachment H – Certification Regarding Lobbying signed by an individual authorized to bind the organization.
- E. Copies of any vendor licensing agreements and/or hardware and software maintenance agreements.
- F. Copies of applicable certifications and/or licenses.

#### 8.2.2.5 Section V – Scope of Work

Vendors shall place their written response(s) to ***Section 2, Scope of Work*** in ***bold/italics*** immediately following the applicable RFP question, statement and/or section.

#### 8.2.2.6 Section VI– Company Background and References

Vendors shall place their written response(s) to ***Section 3, Company Background and References*** in ***bold/italics*** immediately following the applicable RFP question, statement and/or section. This section shall also include the requested information in ***Section 3.2, Subcontractor Information***, if applicable.

#### 8.2.2.7 Section VII – Proposed Staff Resume(s)

- A. Vendors shall include all proposed staff resumes per ***Section 3.4, Vendor Staff Resumes*** in this section.
- B. This section shall also include any subcontractor proposed staff resumes, if applicable.

#### 8.2.2.8 Section VIII – Other Informational Material

Vendors shall include any other applicable reference material in this section clearly cross referenced with the proposal.

### 8.3 PART IB – CONFIDENTIAL TECHNICAL PROPOSAL

8.3.1 Vendors only need to submit Part IB if the proposal includes any confidential technical information (*Refer to Attachment A, Confidentiality and Certification of Indemnification*).

8.3.2 If needed, vendors shall provide one (1) PDF Confidential Technical Proposal file that includes the following:

8.3.2.1 Section I – Title Page with the following information:

Part IB – Confidential Technical Proposal	
RFP Title:	Energized Electric System Safety Training and Compliance
RFP:	69CRC-S974
Vendor Name:	
Address:	
Opening Date:	March 5, 2020
Opening Time:	2:00 PM

8.3.2.2 Section II – Confidential Technical

Vendors shall cross reference the confidential technical information back to the technical proposal, as applicable.

#### 8.4 PART II – COST PROPOSAL

8.4.1 Vendors shall submit pricing information on the Items Tab of their Quote in *NevadaEPro*.

8.4.2 Vendors shall provide additional pricing information as detailed in *Section 8.4.4* if appropriate or required in accordance with *Section 4, Cost*.

8.4.3 The cost proposal shall not be marked “confidential”. Only information that is deemed proprietary per NRS 333.020 (5) (a) may be marked as “confidential”.

8.4.4 If needed, vendors shall provide one (1) PDF Cost Proposal file that includes the following:

8.4.4.1 Section I – Title Page with the following information:

Part II – Cost Proposal	
RFP Title:	Energized Electric System Safety Training and Compliance
RFP:	69CRC-S974
Vendor Name:	
Address:	
Opening Date:	March 5, 2020
Opening Time:	2:00 PM

8.4.4.2 Section II – Cost Proposal

Vendor's shall place the information required per *Section 4, Cost* in this section.

## 8.5 PART III – CONFIDENTIAL FINANCIAL INFORMATION

8.5.1 If needed, vendors shall provide one (1) PDF Confidential Financial Information file that includes the following:

8.5.1.1 Section I – Title Page with the following information:

<b>Part III – Confidential Financial Information</b>	
RFP Title:	Energized Electric System Safety Training and Compliance
RFP:	69CRC-S974
Vendor Name:	
Address:	
Opening Date:	March 5, 2020
Opening Time:	2:00 PM

8.5.1.2 Section II – Financial Information and Documentation

Vendors shall place the information required per *Section 3.1.11* in this section.

## 8.6 CONFIDENTIALITY OF PROPOSALS

8.6.1 As a potential contractor of a public entity, vendors are advised that full disclosure is required by law.

8.6.2 Vendors are required to submit written documentation in accordance with *Attachment A, Confidentiality and Certification of Indemnification* demonstrating the material within the proposal marked “confidential” conforms to NRS §333.333, which states “Only specific parts of the proposal may be labeled a “trade secret” as defined in NRS §600A.030(5)”. Not conforming to these requirements shall cause your proposal to be deemed non-compliant and shall not be accepted by the State.

8.6.3 Vendors acknowledge that material not marked as “confidential” shall become public record and shall be posted to the Purchasing website upon contract award.

8.6.4 It is the vendor’s responsibility to act in protection of the labeled information and agree to defend and indemnify the State of Nevada for honoring such designation.

8.6.5 Failure to label any information that is released by the State shall constitute a complete waiver of any and all claims for damages caused by release of said information.

## 8.7 PROPOSAL PACKAGING



- 8.7.1 Vendors shall submit their proposals through the State electronic procurement website, <https://NevadaEPro.com>, in accordance with the instructions below.
- 8.7.2 Proposals shall be received via <https://NevadaEPro.com> no later than the date and time specified on the General Tab of the Bid Solicitation in *NevadaEPro*. Proposals that are not submitted by bid opening time and date shall not be accepted. Vendors may submit their proposal any time prior to the deadline stated in *NevadaEPro*. In the event that dates, and times specified in this document and dates times specified in *NevadaEPro* conflict, the dates and time in *NevadaEPro* shall take precedence.
- 8.7.3 Proposals submitted as physical copies, email, or any submission method other than via *NevadaEPro* shall not be considered.

## 9. PROPOSAL EVALUATION AND AWARD PROCESS

*The information in this section does not need to be returned with the vendor's proposal.*

- 9.1 Proposals shall be consistently evaluated and scored in accordance with NRS 333.335 based upon the following criteria. The following criteria are listed in order of importance.

Criteria Description	Weight
Demonstrated Competence	25%
Experience in performance of comparable engagements	25%
Expertise and availability of key personnel	25%
Conformance with the terms of this RFP	15%
Cost  Cost proposals will be evaluated based on the following formula:  $\frac{\text{Lowest Cost Submitted by a Vendor}}{\text{Proposers Total Cost}} = \text{Price Factor}$  $\text{Price Factor} \times \text{Weight} = \text{Cost Criteria Score}$	10%

- 9.2 Effective July 1, 2017, a five percent (5%) preference will be awarded to businesses based in Nevada. A Nevada business is defined as a business which certifies either that its 'principal place of business' is in Nevada, as identified in *Section 3.1, Vendor Information*, or that a 'majority of goods provided for the contract are produced' in Nevada. The preference will be applied to the total score.
- 9.3 Proposals shall be kept confidential until a contract is awarded.

- 9.4** The evaluation committee is an independent committee comprised of a majority of State officers or employees established to evaluate and score proposals submitted in response to the RFP pursuant to NRS 333.335.
- 9.5** The evaluation committee may solicit information from any available source concerning any aspect of a proposal and seek and review any other information deemed pertinent to the evaluation process.
- 9.6** Each vendor shall include in its proposal a complete disclosure of any alleged significant prior or ongoing contract failures, contract breaches, any civil or criminal litigation or investigations pending which involves the vendor or in which the vendor has been judged guilty or liable. Failure to comply with the terms of this provision may disqualify any proposal. The State reserves the right to reject any proposal based upon the vendor's prior history with the State or with any other party, which documents, without limitation, unsatisfactory performance, adversarial or contentious demeanor, significant failure(s) to meet contract milestones or other contractual failures. Refer generally to NRS 333.335.
- 9.7** Clarification discussions may, at the State's sole option, be conducted with vendors who submit proposals determined to be acceptable and competitive per NAC 333.165. Vendors shall be accorded fair and equal treatment with respect to any opportunity for discussion and/or written revisions of proposals. Such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing vendors. Any modifications made to the original proposal during the best and final negotiations shall be included as part of the contract.
- 9.8** A Letter of Intent (LOI) shall be issued in accordance with NAC 333.170 notifying vendors of the State's intent to award a contract to a vendor, pending successful negotiations. Negotiations shall be confidential and not subject to disclosure to competing vendors unless and until an agreement is reached. All information remains confidential until the issuance of the formal Notice of Award (NOA). If contract negotiations cannot be concluded successfully, the State upon written notice to all vendors may negotiate a contract with the next highest scoring vendor or withdraw the RFP.
- 9.9** A Notification of Award (NOA) shall be issued in accordance with NAC 333.170. Vendors shall be notified that a contract has been successfully negotiated, executed and is awaiting approval of the Board of Examiners (BOE). Any award is contingent upon the successful negotiation of final contract terms and upon approval of the BOE, when required. Any non-confidential information becomes available upon written request.
- 9.10** Pursuant to NRS 333.700, any contract resulting from this RFP shall not be effective unless and until approved by the Nevada State Board of Examiners.

## **10. TERMS AND CONDITIONS**

### **10.1 PROCUREMENT AND PROPOSAL TERMS AND CONDITIONS**

*The information in this section does not need to be returned with the vendor's proposal.*

- 10.1.1 This procurement is being conducted in accordance with NRS Chapter 333 and NAC Chapter 333.
- 10.1.2 The State reserves the right to alter, amend, or modify any provisions of this RFP, or to withdraw this RFP, at any time prior to the award of a contract pursuant hereto, if it is in the best interest of the State to do so.
- 10.1.3 The State reserves the right to waive informalities and minor irregularities in proposals received.
- 10.1.4 The State will post all official communication regarding this RFP on the *NevadaEPro* website at <https://NevadaEPro.com>. Any changes, amendments, or clarifications will be issued in the form of written responses to vendor questions, amendments, or addendum published on the *NevadaEPro* website entry for this RFP. Vendors should check this website frequently for notice of matters affecting the RFP prior to submitting a proposal. The vendors failure to periodically check for updates does not release the vendor from any additional requirements or information that may have been posted.
- 10.1.5 The failure to provide clearly marked, separate PDF file(s) for ***Part IB and Part III***, which contain confidential information, trade secrets and/or proprietary information, shall constitute a complete waiver of any and all claims for damages caused by release of the information by the State.
- 10.1.6 Pursuant to NRS 333.350, the State reserves the right to reject any or all proposals received prior to contract award.
- 10.1.7 Pursuant to NRS 333.350, the State reserves the right to limit the scope of work prior to award, if deemed in the best interest of the State.
- 10.1.8 Pursuant to NRS 333.335, the State shall not be obligated to accept the lowest priced proposal, however, shall make an award in the best interest of the State of Nevada after all factors have been evaluated.
- 10.1.9 Proposals which appear unrealistic in the terms of technical commitments, lack of technical competence, or are indicative of failure to comprehend the complexity and risk of the project, may be rejected.
- 10.1.10 Proposals from employees of the State of Nevada shall be considered in as much as they do not conflict with the State Administrative Manual (SAM), NRS Chapter 281 and NRS Chapter 284.
- 10.1.11 Proposals may be modified or withdrawn by written notice received prior to the proposal opening time. Withdrawals received after the proposal opening time shall not be considered except as authorized by NRS 333.350(3).
- 10.1.12 Prices offered by vendors in their proposals are an irrevocable offer for the term of the contract and any contract extensions. The awarded vendor agrees to provide the purchased services at the costs, rates and fees as set forth in their

proposal in response to this RFP. No other costs, rates or fees shall be payable to the awarded vendor for implementation of their proposal.

- 10.1.13 The State is not liable for any costs incurred by vendors prior to entering into a formal contract. Costs of developing the proposal or any other such expenses incurred by the vendor in responding to the RFP, are entirely the responsibility of the vendor, and shall not be reimbursed in any manner by the State.
- 10.1.14 Proposals submitted per proposal submission requirements become the property of the State, selection or rejection does not affect this right.
- 10.1.15 Any unsuccessful vendor may file an appeal in strict compliance with NRS 333.370 and NAC Chapter 333.
- 10.1.16 NRS 333.290 grants a preference to materials and supplies that can be supplied from a “charitable, reformatory or penal institution of the State” that produces such goods or services through the labor of inmates. The Administrator reserves the right to secure these goods, materials or supplies from any such eligible institution, if they can be secured of equal quality and at prices not higher than those of the lowest acceptable bid received in response to this solicitation. In addition, NRS 333.410 grants a preference to commodities or services that institutions of the State are prepared to supply through the labor of inmates. The Administrator shall apply the preferences stated in NRS 333.290 and 333.410 to the extent applicable.
- 10.1.17 Pursuant to NRS 333.338, the State of Nevada cannot enter into a contract with a company unless that company agrees for the duration of the contract not to engage in a boycott of Israel. By submitting a proposal or bid, vendor agrees that if it is awarded a contract it will not engage in a boycott of Israel as defined in NRS 333.338(3)(a).

## **10.2 CONTRACT TERMS AND CONDITIONS**

*The information in this section does not need to be returned with the vendor’s proposal.*

- 10.2.1 The awarded vendor shall be the sole point of contract responsibility. The State shall look solely to the awarded vendor for the performance of all contractual obligations which may result from an award based on this RFP, and the awarded vendor shall not be relieved for the non-performance of any or all subcontractors.
- 10.2.2 The awarded vendor shall maintain, for the duration of the contract, insurance coverages as set forth in the fully executed contract. Work on the contract shall not begin until after the awarded vendor has submitted acceptable evidence of the required insurance coverages. Failure to maintain any required insurance coverage or acceptable alternative method of insurance shall be deemed a breach of contract.
- 10.2.3 The State shall not be liable for Federal, State, or Local excise taxes per NRS 372.325.

- 10.2.4 The State reserves the right to negotiate final contract terms with any vendor selected per NAC 333.170. The contract between the parties shall consist of the RFP together with any modifications thereto, and the awarded vendor's proposal, together with any modifications and clarifications thereto that are submitted at the request of the State during the evaluation and negotiation process. In the event of any conflict or contradiction between or among these documents, the documents shall control in the following order of precedence: the final executed contract, any modifications and clarifications to the awarded vendor's proposal, the RFP, and the awarded vendor's proposal. Specific exceptions to this general rule may be noted in the final executed contract. The State shall not indemnify vendor from any liability or damages, including but not limited to attorney's fees and costs, arising under any contract resulting from this RFP.
- 10.2.5 Local governments (as defined in NRS 332.015) are intended third party beneficiaries of any contract resulting from this RFP and any local government may join or use any contract resulting from this RFP subject to all terms and conditions thereof pursuant to NRS 332.195. The State is not liable for the obligations of any local government which joins or uses any contract resulting from this RFP.
- 10.2.6 Any person who requests or receives a Federal contract, grant, loan or cooperative agreement shall file with the using agency a certification that the person making the declaration has not made, and shall not make, any payment prohibited by subsection (a) of 31 U.S.C. 1352.
- 10.2.7 Pursuant to NRS Chapter 613 in connection with the performance of work under this contract, the contractor agrees not to unlawfully discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation or age, including, without limitation, with regard to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including, without limitation apprenticeship.

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

### **10.3 PROJECT TERMS AND CONDITIONS**

*The information in this section does not need to be returned with the vendor's proposal.*

#### **10.3.1 Award of Related Contracts**

- 10.3.1.1 The State may undertake or award supplemental contracts for work related to this project or any portion thereof. The contractor shall be bound to cooperate fully with such other contractors and the State in all cases.

10.3.1.2 All subcontractors shall be required to abide by this provision as a condition of the contract between the subcontractor and the prime contractor.

10.3.2 Products and/or Alternatives

10.3.2.1 The vendor shall not propose an alternative that would require the State to acquire hardware or software or change processes in order to function properly on the vendor's system unless vendor included a clear description of such proposed alternatives and clearly mark any descriptive material to show the proposed alternative.

10.3.2.2 An acceptable alternative is one the State considers satisfactory in meeting the requirements of this RFP.

10.3.2.3 The State, at its sole discretion, shall determine if the proposed alternative meets the intent of the original RFP requirement.

10.3.3 State Owned Property

The awarded vendor shall be responsible for the proper custody and care of any State owned property furnished by the State for use in connection with the performance of the contract and shall reimburse the State for any loss or damage.

10.3.4 Inspection/Acceptance of Work

10.3.4.1 It is expressly understood and agreed all work done by the contractor shall be subject to inspection and acceptance by the State.

10.3.4.2 Any progress inspections and approval by the State of any item of work shall not forfeit the right of the State to require the correction of any faulty workmanship or material at any time during the course of the work and warranty period thereafter, although previously approved by oversight.

10.3.4.3 Nothing contained herein shall relieve the contractor of the responsibility for proper installation and maintenance of the work, materials and equipment required under the terms of the contract until all work has been completed and accepted by the State.

10.3.5 Travel

If travel is required, the following processes shall be followed:

10.3.5.1 All travel shall be approved in writing in advance by the Department.

10.3.5.2 Requests for reimbursement of travel expenses shall be submitted on the State Claim for Travel Expense Form with original receipts for all expenses.

- 10.3.5.3 The travel expense form, with original signatures, shall be submitted with the vendor's invoice.
- 10.3.5.4 Vendor shall be reimbursed travel expenses and per diem at the rates allowed for State employees at the time travel occurs.
- 10.3.5.5 The State is not responsible for payment of any premium, deductible or assessments on insurance policies purchased by vendor for a rental vehicle.
- 10.3.6 Completion of Work

Prior to completion of all work, the contractor shall remove from the premises all equipment and materials belonging to the contractor. Upon completion of the work, the contractor shall leave the site in a clean and neat condition satisfactory to the State.
- 10.3.7 Right to Publish
  - 10.3.7.1 All requests for the publication or release of any information pertaining to this RFP and any subsequent contract shall be in writing and sent to Agency Head or designee.
  - 10.3.7.2 No announcement concerning the award of a contract as a result of this RFP can be made without prior written approval of Agency Head or designee.
  - 10.3.7.3 As a result of the selection of the contractor to supply the requested services, the State is neither endorsing nor suggesting the contractor is the best or only solution.
  - 10.3.7.4 The contractor shall not use, in its external advertising, marketing programs, or other promotional efforts, any data, pictures or other representation of any State facility, except with the specific advance written authorization of Agency Head or designee.
  - 10.3.7.5 Throughout the term of the contract, the contractor shall secure the written approval of the State per *Section 10.3.7.2* prior to the release of any information pertaining to work or activities covered by the contract.
- 10.3.8 Protection of Sensitive Information
  - 10.3.8.1 Sensitive information in existing legacy applications shall encrypt data as is practical.
  - 10.3.8.2 Confidential personal data shall be encrypted.
  - 10.3.8.3 Any electronic transmission of personal information shall comply with NRS 603A.215 (2 & 3).



10.3.8.4 Sensitive data shall be encrypted in all newly developed applications.

## 11. SUBMISSION CHECKLIST

This checklist is provided for vendor's convenience only and identifies documents that shall be submitted in order to be considered responsive. Any proposals received without these requisite documents may be deemed non-responsive and not considered for contract award.

<b>Part IA– Technical Proposal Submission Requirements</b>		<b>Completed</b>
Part IA submitted in one (1) separate PDF file		
Section I	Title Page	
Section II	Table of Contents	
Section III	Vendor Information Sheet	
Section IV	State Documents	
Section V	Scope of Work	
Section VI	Company Background and References	
Section VII	Attachment F – Proposed Staff Resume(s)	
Section VIII	Other Informational Material	
<b>Part IB – Confidential Technical Proposal Submission Requirements</b>		
Part IB submitted in one (1) separate PDF file		
Section I	Title Page	
Section II	Appropriate sections and information that cross reference back to the technical proposal	
<b>Part II – Cost Proposal Submission Requirements</b>		
Part II submitted in one (1) separate PDF file		
Section I	Title Page	
Section II	Cost Proposal	
<b>Part III – Confidential Financial Information Submission Requirements</b>		
Part III submitted in one (1) separate PDF file		
Section I	Title Page	
Section II	Financial Information and Documentation	
<b>Reference Questionnaire Reminders</b>		
Send out Reference Forms for Vendor (with Part A completed)		
Send out Reference Forms for proposed Subcontractors (with Part A and Part B completed, if applicable)		



**February 18, 2020**

**Technical Proposal**

RFP Title: Energized Electric System Safety Training and Compliance  
RFP: 69CRC-S974  
Vendor Name: ESCI Inc.  
Address: PO Box 2822  
Bellingham, WA 98227  
Opening Date: March 5, 2020  
Time: 2:00 PM

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Company Background and References	Page 7
ESCI Resumes	Page 11
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ESCI Customer List	Page 23
Business References	Page 30
ESCI Professionals	Page 31
ESCI Training Topics	Page 31

## VENDOR INFORMATION SHEET FOR RFP 69CRC-S974

**Vendor Shall:**

- A) Provide all requested information in the space provided next to each numbered question. The information provided in Sections V1 through V3 shall be used for development of the contract;
- B) Type or print responses; and
- C) Include this Vendor Information Sheet in Section III of the Technical Proposal.

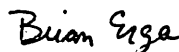
<b>V1</b>	<b>Company Name</b>		
	ESCI Inc.		

<b>V2</b>	<b>Company Address</b>		
	Street Address:	247 Afterglow DR	
	City, State, Zip Code:	Friday Harbor, WA 98250	

<b>V3</b>	<b>Telephone Numbers</b>			
		Area Code	Number	Extension
	Telephone:	360	676-8088	
	Fax:			
	Toll Free:			

<b>V4</b>	<b>Contact Person for Questions / Contract Negotiations, including address if different than above</b>		
	Name:	Brian Erga	
	Title:	President	
	Address:	247 Afterglow DR Bellingham, WA	
	Email Address:	brian@esci.net	
	Telephone Number:	360-676-8088	
	Fax:		

<b>V5</b>	<b>Name of Individual Authorized to Bind the Organization</b>		
	Name:	Brian Erga	
	Title:	President	

<b>V6</b>	<b>Signature (Individual shall be legally authorized to bind the vendor per NRS 333.337)</b>		
	 Signature:		Date: 2/15/2020

## ATTACHMENT A – CONFIDENTIALITY AND CERTIFICATION OF INDEMNIFICATION

Submitted proposals, which are marked "confidential" in their entirety, or those in which a significant portion of the submitted proposal is marked "confidential" shall not be accepted by the State of Nevada. Pursuant to NRS 333.333, only specific parts of the proposal may be labeled a "trade secret" as defined in NRS 600A.030(5). All proposals are confidential until the contract is awarded, at which time, both successful and unsuccessful vendors' technical and cost proposals become public information.

In accordance with the submittal instructions of this RFP, vendors are requested to submit confidential information in separate files marked "**Part IB Confidential Technical**" and "**Part III Confidential Financial**".

The State shall not be responsible for any information contained within the proposal. If vendors do not comply with the labeling and packing requirements, proposals shall be released as submitted. In the event a governing board acts as the final authority, there may be public discussion regarding the submitted proposals that shall be in an open meeting format, the proposals shall remain confidential.

By signing below, I understand it is my responsibility as the vendor to act in protection of the labeled information and agree to defend and indemnify the State of Nevada for honoring such designation. I duly realize failure to so act shall constitute a complete waiver, and all submitted information shall become public information; additionally, failure to label any information that is released by the State shall constitute a complete waiver of any and all claims for damages caused by the release of the information.

This proposal contains Confidential Information, Trade Secrets and/or Proprietary information.

*Please initial the appropriate response in the boxes below and provide the justification for confidential status.*

Part IB – Confidential Technical Information			
YES		NO	
Justification for Confidential Status			

Part III – Confidential Financial Information			
YES		NO	
Justification for Confidential Status			

Company Name ESCI Inc

Signature Brian Erga President

Print Name BRIAN ERGA Date 2/19/20

This document shall be submitted in Section IV of vendor's technical proposal

## ATTACHMENT B – VENDOR CERTIFICATIONS

Vendor agrees and shall comply with the following:

- (1) Any and all prices that may be charged under the terms of the contract do not and shall not violate any existing federal, State or municipal laws or regulations concerning discrimination and/or price fixing. The vendor agrees to indemnify, exonerate and hold the State harmless from liability for any such violation now and throughout the term of the contract.
- (2) All proposed capabilities can be demonstrated by the vendor.
- (3) The price(s) and amount of this proposal have been arrived at independently and without consultation, communication, agreement or disclosure with or to any other contractor, vendor or potential vendor.
- (4) All proposal terms, including prices, shall remain in effect for a minimum of 180 days after the proposal due date. In the case of the awarded vendor, all proposal terms, including prices, shall remain in effect throughout the contract negotiation process.
- (5) No attempt has been made at any time to induce any firm or person to refrain from proposing or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal. All proposals shall be made in good faith and without collusion.
- (6) All conditions and provisions of this RFP are deemed to be accepted by the vendor and incorporated by reference in the proposal, except such conditions and provisions that the vendor expressly excludes in the proposal. Any exclusion shall be in writing and included in the proposal at the time of submission.
- (7) Each vendor shall disclose any existing or potential conflict of interest relative to the performance of the contractual services resulting from this RFP. Any such relationship that might be perceived or represented as a conflict shall be disclosed. By submitting a proposal in response to this RFP, vendors affirm that they have not given, nor intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant or any employee or representative of same, in connection with this procurement. Any attempt to intentionally or unintentionally conceal or obfuscate a conflict of interest shall automatically result in the disqualification of a vendor's proposal. An award shall not be made where a conflict of interest exists. The State shall determine whether a conflict of interest exists and whether it may reflect negatively on the State's selection of a vendor. The State reserves the right to disqualify any vendor on the grounds of actual or apparent conflict of interest.
- (8) All employees assigned to the project are authorized to work in this country.
- (9) The company has a written equal opportunity policy that does not discriminate in employment practices with regard to race, color, national origin, physical condition, creed, religion, age, sex, marital status, sexual orientation, developmental disability or disability of another nature.
- (10) The company has a written policy regarding compliance for maintaining a drug-free workplace.
- (11) Vendor understands and acknowledges that the representations within their proposal are material and important and shall be relied on by the State in evaluation of the proposal. Any vendor misrepresentations shall be treated as fraudulent concealment from the State of the true facts relating to the proposal.
- (12) Vendor shall certify that any and all subcontractors comply with Sections 7, 8, 9, and 10, above.
- (13) The proposal shall be signed by the individual(s) legally authorized to bind the vendor per NRS 333.337.

ESCI Inc  
Vendor Company Name  
Kim Ghe President  
Vendor Signature  
BRIAN ERGA  
Print Name  
2/18/20  
Date

This document shall be submitted in Section IV of vendor's technical proposal

## ATTACHMENT H – CERTIFICATION REGARDING LOBBYING

### Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By: Kim G. President 2/18/20  
Signature of Official Authorized to Sign Application Date

For: ESCI Inc  
Vendor Name

RFP: 69CRC-S974 Energized Electric System  
Project Title  
Safety Training and Compliance

This document shall be submitted in Section IV of vendor's technical proposal

## **Scope of Work**

ESCI proposes to provide Colorado River Commission (CRC) with ESCI's complete safety and training services program. This service meets and exceeds all training topics listed under Section 2, Scope of Work, detailed in RFP 69CRC-S974. ESCI's safety and training services will ensure all CRC employees are compliant with 29 CFR OSHA 1910.269 and 29 CFR OSHA 1926 Subpart V.

ESCI will work with CRC management to develop a yearly calendar of safety training topics, provided one day per month. ESCI also offers unlimited consulting support and assistance developing written safety policies and safe work methods at no additional fee.

ESCI's proposal includes:

- Annual Safety and Wellness Training including
  - First aid/CPR/AED training
  - Hearing testing as required by OSHA
- Monthly energized electric safety training covering:
  - Equipotential grounding
  - Underground system grounding
  - Electrical safety as required by OSHA 29 CFR 1910
  - Fire retardant clothing use and care
  - Hot stick use and care
  - Confined space entry
  - Chlorine gas respirator use and care
  - Rubber glove use and care
  - Hazardous material communication
  - Additional safety, health and wellness high-voltage electrical topics requested by CRC management
- Switchman certification training and certification
- Miscellaneous safety equipment and materials

Due to new FMCSA regulations effective January 1, 2020, ESCI cannot provide funding for Commercial Driver's License (CDL) training. The new regulations require only the employer or an individual to fund this training and certification.



### 3. COMPANY BACKGROUND AND REFERENCES

#### 3.1 VENDOR INFORMATION

3.1.1 Vendors shall provide a company profile in the table format below.

Question	Response
Company name:	ESCI Inc
Ownership (sole proprietor, partnership, etc.):	S Corp
State of incorporation:	Washington

Question	Response
Date of incorporation:	1997
# of years in business:	23
List of top officers:	Brian Erga
Location of company headquarters, to include City and State:	Bellingham, WA
Location(s) of the office that shall provide the services described in this RFP:	Bellingham, WA
Number of employees locally with the expertise to support the requirements identified in this RFP:	4
Number of employees nationally with the expertise to support the requirements in this RFP:	20
Location(s) from which employees shall be assigned for this project:	Santa Clara, UT

- 3.1.2 Pursuant to NRS 333.3354, the State of Nevada awards a five percent (5%) preference to a vendor certifying that its principal place of business is in Nevada. The term 'principal place of business' has the meaning outlined by the United States Supreme Court in Hertz Corp. v. Friend, 559 U.S. 77 (2010), typically meaning a company's corporate headquarters. This preference cannot be combined with any other preference, granted for the award of a contract using federal funds, or granted for the award of a contract procured on a multi-state basis. To claim this preference a business must submit a letter with its proposal showing that it qualifies for the preference.
- 3.1.3 **Please be advised**, pursuant to NRS 80.010, a corporation organized pursuant to the laws of another state shall register with the State of Nevada, Secretary of State's Office as a foreign corporation before a contract can be executed between the State of Nevada and the awarded vendor, unless specifically exempted by NRS 80.015.
- 3.1.4 The selected vendor, prior to doing business in the State of Nevada, shall be appropriately licensed by the State of Nevada, Secretary of State's Office pursuant to NRS 76. Information regarding the Nevada Business License can be located at <http://nvsos.gov>.

Question	Response
Nevada Business License Number:	NV20131420619
Legal Entity Name:	ESCI Inc

Is "Legal Entity Name" the same name as vendor is doing business as?

Yes	X	No	
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If "No", provide explanation.

- 3.1.5 Has the vendor ever been engaged under contract by any State of Nevada agency?

Yes	X	No
-----	---	----

If "Yes", complete the following table for each State agency for whom the work was performed. Table can be duplicated for each contract being identified.

Question	Response
Name of State agency:	Colorado River Commission
State agency contact name:	Robert Reese
Dates when services were performed:	2006 - current
Type of duties performed:	Safety Training
Total dollar value of the contract:	\$85,000.00

- 3.1.6 Are you now or have you been within the last two (2) years an employee of the State of Nevada, or any of its agencies, departments, or divisions?

Yes		No	X
-----	--	----	---

If "Yes", please explain when the employee is planning to render services, while on annual leave, compensatory time, or on their own time?

If you employ (a) any person who is a current employee of an agency of the State of Nevada, or (b) any person who has been an employee of an agency of the State of Nevada within the past two (2) years, and if such person shall be performing or producing the services which you shall be contracted to provide under this contract, you shall disclose the identity of each such person in your response to this RFP, and specify the services that each person shall be expected to perform.

- 3.1.7 Disclosure of any significant prior or ongoing contract failures, contract breaches, civil or criminal litigation in which the vendor has been alleged to be liable or held liable in a matter involving a contract with the State of Nevada or any other governmental entity. Any pending claim or litigation occurring within the past six (6) years which may adversely affect the vendor's ability to perform or fulfill its obligations if a contract is awarded as a result of this RFP shall also be disclosed.

Does any of the above apply to your company?

Yes		No	X
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If "Yes", please provide the following information. Table can be duplicated for each issue being identified.

Question	Response
Date of alleged contract failure or breach:	
Parties involved:	

Question	Response	
Description of the contract failure, contract breach, or litigation, including the products or services involved:		
Amount in controversy:		
Resolution or current status of the dispute:		
If the matter has resulted in a court case:	Court	Case Number
Status of the litigation:		

- 3.1.8 Vendors shall review and provide if awarded a contract the insurance requirements as specified in *Attachment D, Insurance Schedule for RFP 69CRC-S974*
- 3.1.9 Company background/history and why vendor is qualified to provide the services described in this RFP. Limit response to no more than five (5) pages.
- 3.1.10 Provide a brief description of the length of time vendor has been providing services described in this RFP to the public and/or private sector.
- 3.1.11 If needed, any personal identification information, financial information and documentation to be included in accordance with *Section 8.5, Part III – Confidential Financial Information*.

### 3.2 SUBCONTRACTOR INFORMATION

Subcontractors are defined as a third party, not directly employed by the contractor, who shall provide services identified in this RFP. This does not include third parties who provide support or incidental services to the contractor.

- 3.2.1 Does this proposal include the use of subcontractors?

Yes		No	X
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If "Yes", vendor shall:

- 3.2.1.1 Identify specific subcontractors and the specific requirements of this RFP for which each proposed subcontractor shall perform services.
- 3.2.1.2 If any tasks are to be completed by subcontractor(s), vendors shall:
- A. Describe how the work of any subcontractor(s) shall be supervised, channels of communication shall be maintained and compliance with contract terms assured; and

## PROPOSED STAFF RESUME FOR RFP 69CRC-S974

*A resume must be completed for all proposed prime contractor staff and proposed subcontractor staff.*

Company Name Submitting Proposal:	ESCI Inc
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<i>Check the appropriate box if the proposed individual is prime contractor staff or subcontractor staff.</i>			
Contractor:	<input checked="" type="checkbox"/>	Subcontractor:	<input type="checkbox"/>

<i>The following information requested pertains to the individual being proposed for this project.</i>			
Name:	Robert Bennett	Key Personnel: (Yes/No)	<input checked="" type="checkbox"/>
Individual's Title			
# of Years in Classification:	41	# of Years with Firm:	5

<b>BRIEF SUMMARY OF PROFESSIONAL EXPERIENCE</b>			
<i>Information should include a brief summary of the proposed individual's professional experience.</i>			

Mr. Bennett has 41 years in the electric utility business as a journeyman lineman, foreman and senior safety administrator. Robert (Bob) is highly skilled in operations, maintenance and construction of overhead and underground transmission, distribution and substations. Mr. Bennett has extensive knowledge in Federal OSHA's safety regulations and work rules. Bob is also skilled in the environmental concerns covering the generation, transmission and distribution of electric energy. He has excellent communication skills and can speak to all groups of people.

As a senior safety administrator for one of the largest West coast utilities, Mr. Bennett was responsible for the company's local safety committees and emergency response teams. He provided consulting and training to employees and management on the application of laws, regulations and policies for safe work practices. Bob conducted safety and health risk assessments, job task analyses, ergonomics and body mechanic assessments for the company's craft and office workers.

Mr. Bennett is knowledgeable in analyzing hazards and potential risks to people, facilities and equipment in accordance with industry best practices. He has investigated many industrial incidents and developed detailed reports and recommendations to senior management on the incidents.

## **RELEVANT EXPERIENCE**

***Information required should include: timeframe, company name, company location, position title held during the term of the contract/project and details of contract/project.***

- Senior T&D Specialist 2005 to 2012 Rocky Mountain Power
- Technical training for substation journeyman and apprentices, journeyman lineman and apprentices, managers, engineers and contractors.
- Committee member of the Rocky Mountain Power safety advisory committee.
- Manage schedules and employee resources.
- Implement strategic business objectives, strategies to complete compliance training.
- Participate in activities related to the planning, design and building substations, control buildings and switching for electrical distribution and transmission systems.
- Promote safety in the workplace for demonstrated leadership.
- Currently respond to after hour's questions on substations, safety and environment.
- Review and audit substations and safety workplace.
- Current position requires interview, hire, train, coach, and develop employees.
- Implement and deliver more efficient way to perform the job every day, including training budgets.
- Managed Casper, American Fork, and Jordan Valley sub ops in an interim basis.
- Proficient with computer applications for excel, word, SAP, and PowerPoint applications.
- Thorough knowledge of labor agreements, accident prevention manuals and company policies and procedures.

### **Journeyman Lineman 1983-2005 Utah Power**

- Responsibilities included constructing, maintaining transmission overhead and underground lines and substations.
- Supervised contractors for substation construction.
- Constructed over 25 Substations.
- Extensive knowledge on test equipment, including Doble testing, TTR, Megger, Hydran, Hipot, Ductor, Timer etc.
- Performed emergency and planned maintenance on substations, transmission lines and distribution lines, both overhead and underground.
- Supervised crews when needed including Contract crews.

Journeyman Lineman apprenticeship 1980-1983 Utah Power

- All responsibilities in conjunction with IBEW apprenticeship

Steam Plant Auxiliary operator 1977-1980 Utah Power

- All responsibilities of an operator in an electrical steam generating plant

## **EDUCATION**

***Information required should include: institution name, city, state, degree and/or Achievement and date completed/received.***

Journeyman Lineman apprenticeship 1980-1983

Utah State University, 1976, 1977

Idaho State University 1973, 1974

BUSINESS MANAGEMENT, MINOR IN PORTUGUESE

Graduated High School, Grace, Idaho

## **CERTIFICATIONS**

***Information required should include: type of certification and date completed/received.***

Mr. Bennett holds:

Advanced Safety Certificate

Scaffold training Train the Trainer Certificate

Smith Systems Driving Trainer Certificate

Recurrent Utility Flight Operations Certificate

Safe Start Train the Trainer Certificate

## **REFERENCES**

***A minimum of three (3) references are required, including name, title, organization, phone number, fax number and email address.***

Brent Rich

Safety Manager

Rocky Mountain Power

1407 N Temple

Salt Lake City, UT

[Brent.rich@rockymountainpower.net](mailto:Brent.rich@rockymountainpower.net)

801-554-0736

Russ Waldner  
 GM  
 Carbon Power  
 PO Box 579  
 Saratoga, WY 82331  
[rwldner@carbonpower.com](mailto:rwldner@carbonpower.com)  
 307-326-5206

CJ Craess  
 Manager Operations  
 High Plains Power  
 PO Box 713  
 Riverton, WY 82501  
[cjcraess@highplainspower.com](mailto:cjcraess@highplainspower.com)  
 307-856-9426

### PROPOSED STAFF RESUME FOR RFP 69CRC-S974

*A resume must be completed for all proposed prime contractor staff and proposed subcontractor staff.*

Company Name Submitting Proposal:	ESCI Inc
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<i>Check the appropriate box if the proposed individual is prime contractor staff or subcontractor staff.</i>			
Contractor:	<input checked="" type="checkbox"/>	Subcontractor:	<input type="checkbox"/>

<i>The following information requested pertains to the individual being proposed for this project.</i>			
Name:	Brian Erga	Key Personnel: (Yes/No)	<input checked="" type="checkbox"/>
Individual's Title			
# of Years in Classification:	43	# of Years with Firm:	23

<b>BRIEF SUMMARY OF PROFESSIONAL EXPERIENCE</b>	
<i>Information should include a brief summary of the proposed individual's professional experience.</i>	

Mr. Brian Erga founded ESCI in 1990 to provide safety and training courses to electrical utility workers. Since then, ESCI has developed a staff of 20 nationally recognized professionals, knowledgeable in electrical safety and training services, safety consulting, safety standards and work methods development. ESCI provides works methods, consulting and training of de-energized and live-line rubber glove, hot stick, bare-hand and helicopter safe work methods



Mr. Erga is a 1978 graduate of the University of Washington, School of Electrical Engineering and has been involved in the Electrical Utility Industry for more than 54 Years. He is a senior member of the Institute of Electrical and Electronic Engineers (IEEE), and the Engineering in the Safety, Maintenance, and Operations of Lines Subcommittee (ESMO).

Mr. Erga is an elected member to NESC-C2 "Work Methods" Subcommittee and was active in the revision of the 2007, 2012, 2017 NESC, and currently active on the 2022 NESC publication. He is chairman of the ESMO Distribution MAD paper, ESMO Mechanical Equipment Task Force, chairman of the ESMO Induction Task Force and co-chair of the ESMO Underground Operations and Maintenance Work Group. He is an active member of many IEEE, ESMO, Federal OSHA, ANSI, and ASTM committees, work groups and task forces.

He actively participated in the revision process of the 2014 publication of 29 CFR OSHA 1910.269 and 29 CFR OSHA 1926 Subpart V. As part of the revision process and close association with Federal OSHA's electric utility experts, Mr. Erga has in-depth knowledge of what the new regulations require and how they are to be interpreted. Mr. Erga has published many articles and has spoken on the application of these revised and new regulations.

Mr. Erga is a leading expert in all types of personal protective grounding including distribution, transmission, vehicles, underground and substations. Mr. Erga has published many papers and articles related to the electric utility industry.

Mr. Erga has spoken at over 1,500 locations across the country and provided expertise in safety and training services, accident investigations, safety consulting, work methods development, and expert witness services. He has been retained as an expert by the US Department of Labor, State OSHAs and many utilities for consulting and expert witness services.

#### **RELEVANT EXPERIENCE**

*Information required should include: timeframe, company name, company location, position title held during the term of the contract/project and details of contract/project.*

#### **Professional Experience:**

Electrical Safety Consultants International Inc (ESCI)      1994 - Present  
President:

- Oversee a staff of 19 professional safety, training and wellness experts
- Oversee the safety and training needs of 100 plus electric utilities and 3,000 plus employees
- Provide expertise in the operations, maintenance and construction of electrical utility systems in the United States
- Provide safety and training consulting services to the electric utility industry
- Provide expert witness services relating to electrical cases
- Involvement in many accident investigations of utility workers and the general public

#### Puget Sound Power & Light Company

1978 – 1996

- District Engineer
- Substation Design, Operation and Maintenance Engineer
- Training Supervisor
- Safety, Standards and Work Methods Engineer  
Oversaw the entire company's operation, maintenance and construction work methods and standard development
- Distribution and Transmission Engineer  
Designed hundreds of distribution and transmission line extensions
  - Designed and oversaw the construction, maintenance and operation of the electrical system in Whatcom County, Washington
- Supervisor, Lynden Service Center

#### Snohomish County PUD #1 1973 – 1978

- Underground Construction Coordinator
- Line Crew Helper
- Underground Locator

#### Residential and Commercial Wiring Systems

- Designed and wired new residences and rewired existing homes and commercial facilities.

#### EDUCATION

*Information required should include: institution name, city, state, degree and/or Achievement and date completed/received.*

**Education:**

- Bachelor of Science in Electrical Engineering (BSEE), Power Option, 1978, University of Washington, Seattle, WA
- Advanced Project Management, 1979, Seattle University, Seattle, WA
- Applied Protective Relaying, 1982, Westinghouse Electric Company, Coral Springs, FL
- NELPA Meter School, 1983, Washington State University, Pullman, WA
- Numerous electrical training courses and safety courses

**CERTIFICATIONS**

*Information required should include: type of certification and date completed/received.*

ASTM voting member since 2000  
IEEE/ESMOL voting member since 1984  
NESC Subcommittee 8 voting member since 2002  
ASSE member since 2009  
CUSP 2013

**REFERENCES**

*A minimum of three (3) references are required, including name, title, organization, phone number, fax number and email address.*

Riley Adams  
Manger Electric Initiatives  
Ameren Illinois  
607 E Adams ST  
Springfield, IL 62701  
217-246-0213  
[radams@ameren.com](mailto:radams@ameren.com)

James Tomaseski  
Director of Safety  
Par Electric  
4770 N Belleview Ave  
Kansas City, MO 64116  
[jtomaseski@parelectric.com](mailto:jtomaseski@parelectric.com)  
202-841-2664

Brent Rich  
Safety Manager  
Rocky Mountain Power  
1407 W North Temple  
Salt Lake City, UT 84116  
[Brent.rich@rockymountainpower.net](mailto:Brent.rich@rockymountainpower.net)  
801-554-0736

**David Wallis**  
**Director of Standards and Work Rules**

Mr. David Wallis holds a B.S. in Electrical Engineering from Stevens Institute of Technology and is nationally recognized as a preeminent expert in electrical safety standards and work rules. He recently retired after 40 plus years developing Occupational Safety and Health Administration (OSHA) electrical safety standards. Mr. Wallis directed the OSHA Office of Engineering Safety for the last 10 years, authored 10 OSHA safety and health standards and contributed to dozens of others. David has examined the records of more than 6,000 electrical accidents and thousands of non-electrical accidents to determine their cause, allowing him to draft rules preventing the re-occurrence of those accidents.

Mr. Wallis is the primary author of most OSHA electrical standards, including OSHA 1910.269, OSHA 1926 Subpart V, OSHA 1910 Subpart S and OSHA 1926 Subpart K. He also contributed to the promulgation of several other OSHA safety standards, such as the permit-required confined space standard in OSHA 1910.146. David has represented OSHA as an expert witness in several cases before the OSHA Review Commission.

David actively participates in national consensus standards writing committees by offering his extensive knowledge in occupational safety and health standards. He is an active member of ASTM F18, IEEE, the Engineering in the Safety, Maintenance, and Operations of Lines Subcommittee (ESMOL), NFPA 70E, and NESC Subcommittee 8 responsible for Part 4 "Work Rules."

**George Gela, Ph.D., E.Eng.**  
**ESCI Director of Testing and Research**

Mr. Gela is an internationally recognized electric utility expert with a doctoral degree in electrical engineering and extensive background in research, testing, and teaching. Mr. Gela has authored and co-authored 20+ technical peer-reviewed papers, 100+ major research reports, and 30+ technical conference papers, as well as delivered 80+ technical seminars and presentations worldwide. He has participated in 80+ technical

panel discussions, and provides the electric power utility industry with specialized services, including:

- Design, performance analysis, testing, and live maintenance of HVAC and HVDC overhead lines, underground cables, and equipment
- Consulting and support in HVAC, HVDC, lightning and switching impulse, and high-current testing of equipment
- Development of procedures for safe live work and de-energized work (voltage and current induction issues); and seminars and training sessions for new and seasoned professionals
- Live Line Maintenance
- Control Room & Switchyard Switching Procedures
- Transmission Line Transients, Design, Modeling, Performance, Maintenance & Inspection
- Arc flash Issues
- Underground Distribution Cable Failure Analysis & Manhole Events/Explosions
- Substation Grounding
- Regulatory Compliance and Electric Industry Policy, Procedures & Standards (IEEE, ANSI, ASTM, NEMA, NESC, NEC, OSHA, IEC, CENELC, BSI, VDE)
- Deterioration Assessment

Mr. Gela is currently an adjunct professor at Western New England University in Springfield, MA, where he teaches graduate and undergraduate courses in AC Power Systems, Power Electronics, and Renewable Energy.

From 2006 to 2014 Mr. Gela held the position as Technical Executive and Senior Project Manager at ELECTRIC POWER RESEARCH INSTITUTE (EPRI), in Lenox, MA. At EPRI he managed a wide range of projects involving the R&D into generating, delivering and using electricity for public benefit. Mr. Gela collaborated with other scientists and engineers, as well as experts from academia and industry, to address challenges in electricity, such as reliability, efficiency, affordability, health, safety, and the environment. He provided training and consulting to EPRI member utilities (representing more than 90% of the electricity generated and delivered in the US), and international participants from 20 plus countries. He also prepared EPRI research reports and developed EPRI reference books.

Mr. Gela assisted First Energy in minimizing the cost of replacing bundle spacers on a 500 kV line by establishing a live-line procedure using helicopter-based work methods, which reduced the work duration from 6 months to 22 days and lowered cost to the

utility by 10%. He enhanced worker safety, improved system reliability/availability, reduced line maintenance costs, and prevented revenue loss for Public Service Electric & Gas, Western Area Power Administration, and other utilities by developing and proof-testing devices such as the Portable Protective Air Gap (US Patent 6,957,111 B20 with PSE&G), which allowed lines up to 500 kV to remain fully operational during live-line work while protecting workers from excessive transient over voltages.

### **Education and Licensure**

- Industrial Research Fellowship and Industrial Postdoctoral Fellowship, Trench Electric Company (The Trench Group), Toronto, Canada
- Ph.D., M.A.Sc., and B.A.Sc. in Electrical Engineering, University of Toronto, Toronto, Canada
- Registered Professional Engineer, Ontario, Canada
- Professional Engineers Ontario (PEO) License Number 15767015

### **Industry Involvement**

- International Electrotechnical Commission (IEC) Technical Committee 78 “Live Working,” International Chairman
- Institute of Electrical and Electronics Engineers (IEEE), Member, Senior Member, Chair of Working Groups, Local Chapters of the PES, and various other posts (named Outstanding Engineer for 2000 by the IEEE/PES Berkshire Chapter and IEEE Region 1; received the IEEE/PES Working Group Recognition Award for Best Technical Report)
- International Conference on Large High-Voltage Electric Systems (CIGRÉ), Individual Member

### **Hector Silva** **Director of Operations**

Mr. Silva has over 47 years in the electrical utility business including 13 years as a journeyman lineman, five years as a T & D Safety Specialist, eight years as Manager of Safety for El Paso Electric and 20 years as the Director of Operations at ESCI. Hector is responsible for daily operations of ESCI's safety and training professionals.

Mr. Silva is an expert in electric utility safety and training and is considered an authority in Department of Transportation (DOT) subjects relating to the utility industry. Hector is a member of the American Society of Safety Engineers (ASSE), a Certified Utility

Safety Administrator (CUSA) and an active member of several national organizations including the National Safety Council, Southwest Electrical Safety Exchange, Edison Electric Institute (EEI), and the Utility Safety and Operations Leadership Organization (USOLN).

Hector is widely known in the industry for his safety training experience and knowledge in utility safety regulations and procedures. In addition, Hector conducts several Leadership Electrical Safety Courses throughout the year.

Mr. Silva leads ESCI's safety auditing services for and has been an expert witness in court cases involving electrical contact accidents and litigation.

### **About ESCI**

ESCI was founded in 1990 to provide safety training courses for utility workers. Since then, ESCI has developed a staff of 20 plus (we are still growing) nationally recognized professionals. ESCI offers the following services to public and private utilities, contractors and municipal public works:

- Electric utility related safety, training and consulting services
- Federal OSHA 1910.269 and OSHA 1926 Subpart V regulation interpretation and compliance consulting
- Live line hot stick, rubber glove and bare-hand classroom and field training covering voltages from 4 kV to 765 kV
- Safety standards and work methods development
- Health and wellness programs and services
- Public works safety, training and consulting services
- FR Clothing Assessment under OSHA 1910.269 and NFPA 70E
- Safety and work method audits of utility and service provider programs and facilities
- Distribution, transmission and substation maintenance and operation support services
- Substation maintenance management programs
- Expert witness services for litigation proceedings
- On-site equipment safety inspections
- Forensic engineering of accidents for litigation preparation
- Consulting services to manufacturers and suppliers for equipment design and qualification for utility applications

ESCI provides a full range of services for the utility industry. Our team of highly experienced journeymen, engineers, codes experts, managers, instructors, consultants, and trainers are recognized across the country as the leaders in the utility industry. Our staff provides consulting services to utilities, contractors, manufacturers, Federal and State OSHA programs. ESCI's staff collectively totals more than 850 years of utility knowledge and expertise gained from utilities across the nation.

ESCI's staff includes professionals who have retired and joined ESCI from some of the largest utility organizations in the country. Each staff member has many years of technical, hands-on, trade specific, supervisory and management experience. We have held positions as general managers, engineering managers, Federal OSHA department heads, test lab directors, line superintendents, line and substation foreman, directors of safety, international training instructors, distribution, transmission and substation design, construction, maintenance and operations technicians and managers.

ESCI provides private and public utility companies, rural electric and telephone associations, municipalities, governmental organizations, contractors and service providers a complete package of services. These services are specially developed to train, retrain and upgrade workers in the operations, maintenance, and construction groups.

Our staff are **THE** industry leading experts in AMR/AMI Smart Grid Technology, Federal OSHA regulations interpretations and applications, hands-on live-line training and consulting services.

ESCI currently provides ongoing services to more than 110 private, public, Co-ops and REAs electric utilities, employing more than 4,900 employees across the entire United States. ESCI serves some of our customers as their "Safety and Training Department" providing all the services an "in-house" safety and training department might offer, including safety training, field audits, updates to written safety manuals and policies, rule and regulation interpretation and application, and consultation.

ESCI Inc. is the **only** company whose entire staff of professionals are active committee members and chairpersons to the vast majority of the utility organizations, associations, committees, work groups, and task forces including:

- Institute of Electrical and Electronic Engineers (IEEE)
  - Power Engineering Society



- Engineering in the Safety, Maintenance, and Operations of Lines Subcommittee (ESMOL)
  - Live Work Guide Working Group
  - Conductive Clothing Task Force
  - Fall Protection Task Force
  - Insulator Cleaning Task Force
  - Worker in the Air Gap Working Group
  - Maximum Transient Overvoltage Task Force
  - Work Methods Working Group
  - Broken Insulator Task Force
  - IEEE 1048 Grounding Task Force
  - ESMO/NESC Coordinating Working Group
  - Mechanical Equipment Task Force
  - Underground Grounding Task Force
- International Electric Commission (IEC)
  - United States Representative to IEC TC 78
- National Electrical Safety Code (NESC)
  - NESC C-2 “Work Methods” Committee
- National Safety Council Utilities Division (NSC)
- Edison Electric Institute (EEI)
- American Society of Safety Engineers
- National Safety Council
- United States Federal OSHA consultants
- American Society for Testing and Materials (ASTM), F18 Committee
  - FR Clothing Committee
  - Grounding Equipment Committee
  - Insulated Tools Committee
  - Insulated Blanket and Cover-Up Committee
- National Utilities Safety and Education Association (NUSEA), Member

And, one of the most valuable tools ESCI has developed over the years of business is direct, personal contacts and relationships with the most knowledgeable, most respected and most important experts and officials in our industry. We have personal relationships with Federal OSHA, the international unions, utilities, professional and trade organizations, manufacturers and experts in the trade. No other organization can match our ability to get the right answer in a timely manner.

### **ESCI Customer Listing**

Alaska Electric Light and Power

Altec China  
American Public Power Association  
Ameren Illinois  
Arizona Public Services  
Asplundh Tree Company  
Association of Illinois Electric Cooperatives  
Association of Missouri Electric Co-ops  
Avista Corporation  
BC Hydro  
Bend Research Pharmaceutical Process  
Benton County PUD #1  
Benton County REA  
Big Bend Co-op  
Big Flat Electric Cooperative Inc.  
Blaine City Light  
Bogle and Gates, Attorneys at Law  
Bonneville Power Administration  
Brown and Cole  
Brown and Kyser Inc  
Callen Construction  
Canby Utilities  
Carroll Electric Cooperative  
Central Maine  
Chelan County PUD #1  
Chippewa Valley College  
Chugach Electric Association  
City of Bay City, Michigan  
City of Bellingham  
City of Blaine  
City of Bonners Ferry  
City of Centralia  
City of Ellensburg  
City of Forest Grove Light and Power  
City of Glendale  
City of Ketchikan  
City of Las Vegas  
City of Lewiston, Public Works  
City of Lodi  
City of Monmouth  
City of Palo Alto

City of Port Angeles, Electric  
City of Port Angeles, Public Works  
City of Provo  
City of Redding Electric Utility  
City of Richland  
City of Roseville  
City of Sumas  
City of Tacoma  
City of Vernon  
Clallam County PUD  
Clark County PUD  
Clatskanie PUD  
Clearwater Power Company  
Coca Cola of North America  
Colorado River Commission  
Colorado Rural Electric Association  
Colorado Springs Utilities  
Columbia River PUD  
ComEd  
Coos-Curry Electric Cooperative  
Crawford Insurance Services  
Crockett & Myers  
Dairyland Power Co-op  
Dakota Electric Utilities  
Dayton Power and Light  
Dillard Smith Construction  
Doble  
Don Stone, Attorney  
Dooley, Herr & Peltzer  
Douglas County PUD  
Douglas Ehlke, Attorney at Law  
Drinker, Biddle & Reath  
DuPont  
Edison Electric Institute  
Electric Council of New England  
Elmhurst Mutual Power and Light Co.  
Emerald Engineering Inc.  
Energy Australia, Australia  
Eversource  
Entergy

EPRI  
ES Boulos Company  
Eugene Water & Electric Board  
Exelon  
Fergus Electric  
Ferry County PUD  
Flathead Electric Co-op Assn  
Florida Power and Light  
Florida Power Corp  
Franklin County PUD #1  
Fraser, Stryker & Meysey  
Fulbright & Jaworski LLP  
General Electric Company  
Georgia Transmission  
Glacier Electric Cooperative  
Gordon, Murrey & Tilden LLP  
Grand Canyon State Electric Co-op Association  
Grant County PUD  
Great River Energy  
Great Southwestern Construction Company  
Hammer Electric  
Hancock-Wood Electric Cooperative  
Hawaiian Electric  
Hawkeye LLC  
Henkels & McCoy  
Hill County Cooperative  
Homer Electric Association  
Hood Law Firm  
Hooper Corporation  
Hoosier Energy REC  
Hubbell Power Products  
Idaho Falls Power  
Idaho Light and Power Cooperative  
Idaho National Labs  
Illinois Electric Cooperative  
Imperial Valley Irrigation District  
Imunex Corp  
Independent Inspection Co.  
Inside Passage Electric Co-op  
Inland Power and Light Co.

International Brotherhood of Electrical Workers  
International Transmission Co.  
Los Alamos  
Iowa Lakes Electric Co-op  
Irby Construction  
Itron  
Jackson Walker LLP  
Jim Wilkins Trucking Co  
Joe Brett Reynolds, Lawyer  
Joslyn Hi-Voltage Corporation  
KDM Powerline Construction  
Kennecott Greens Creek Mining Co.  
Kittitas County PUD  
Kodiak Electric Association  
Kootenai Electric Cooperative  
Kysar & Brown  
Lewis County PUD  
Lincoln Electric Co-op  
Lincoln Power District  
Line and Power Electrical Services, LLC  
Main.Net-Power Line Communication Inc  
Maslonka & Associates  
Massachusetts Electric  
Maui Electric Company  
Maxon Davis, Attorney  
McCormick, Barstow, Sheppard, Wayte and Carruth Law Firm  
McGuire Wood Law Firm  
McGuire Wood LLP  
McMinnville Water and Light  
Merced Irrigation District  
MEUW  
Michigan Electric Cooperative Association  
Michaels  
Mid American Energy  
Minnesota Municipal Utilities Association  
Mission Valley Electric  
Missoula Electric Cooperative  
Modern Electric Water Company  
Montana Power Company  
Montana-Dakota Utilities

Municipal Light & Power  
National Grid  
National Utilities Safety and Education Association  
Navopache Electric Co-op  
Nebraska Rural Electric Association  
NECA Northeast  
Neon Communications Inc  
Nespelem Valley Electric  
Nevada Power  
New York Power Authority  
North Dakota Association of Rural Electric Cooperatives  
North Wasco PUD  
Northeast Utilities Group  
Northwest Public Power Association  
Nstar  
Nucor Steel Seattle  
NXTPhase T & D Group  
Ohio Rural Electric Cooperatives  
OHOP Mutual Light Company  
Okanogan County Electric Coop  
Okanogan County PUD  
Omimex  
Orcas Power and Light Coop  
Overton Power District No. 5  
Pacific Gas and Electric Company  
Pacific Power  
PacifiCorp  
PAR Construction  
Parkland Light and Power Company  
PECO  
Pend Oreille County PUD  
Pend Oreille PUD #1  
Peninsula Light Company  
Pioche Public Utilities  
PNW Resources  
Port Angeles City Light  
Port of Tacoma  
Portland General Electric  
Potelco Construction  
PSE&G

Public Utility District No. 1 of Douglas County  
Puget Sound Energy  
Quad States Instructors, Inc  
Quanta Services  
Quantum Energy Services  
Rocky Mountain Power  
Salisbury  
Salmon River Electric Co-op  
Salt River Project  
San Diego Gas and Electric  
Seabrook Nuclear Plant  
Seattle City Light  
Serria Pacific  
S & C  
SMUD  
Snohomish County PUD #1  
South Dakota Rural Electric Association  
South Plains Electric Co-op  
Southeastern Electric Exchange  
Southern California Edison  
Southwest Energy Solutions  
Springfield Utilities Board  
Stanford University  
State of Alaska Office of the Attorney General  
State of Oregon  
Suder Law Firm  
Tacoma City Light  
Tanner Electric  
Tennessee Valley Authority  
Tesla  
THIRO-USA  
Tillamook PUD  
Trinity Public Utilities District  
Tucson Electric Power Co.  
Turlock Irrigation District  
Unisource Energy Services  
United States Department of Labor, OSHA  
University of Oregon  
Utah Power Company  
Valley Electric Association

Wahkiakum PUD  
Washington State Department of Labor and Industries  
Washington State Governors Safety Conference  
Waverly Light and Power  
West Oregon Cooperative  
Wilson Construction  
WireDynamix  
Yellowstone Valley Electric Cooperative  
Yuba County Water Agency

### **Business References**

Eric Schwarzrock  
Director Substation North  
1 Ohm Way  
Reno, Nv  
[escschwarzrock@nvenergy.com](mailto:escschwarzrock@nvenergy.com)  
775-232-9973

Carlos Agueda  
Environmental, Health & Safety Manager  
Turlock Irrigation District  
PO Box 949  
Turlock, CA 96161  
209-620-3385 Office  
209-883-8368 Cell

Juan Sandoval  
Manager of Engineering and Operations  
Merced Irrigation District  
PO Box 2288  
Merced, CA 95340  
209-345-2811 Office  
209-631-2729

Scott Wade  
Tillamook PUD  
PO Box 433  
Tillamook, OR 97141  
503-812-0053



### **ESCI Professionals**

Brian Erga	President
Gretchen Erga	Director of Health and Wellness
Hector Silva	Director of Safety and Training Services
David Wallis	Director of Standards and Work Rules
Kris Buchholz	Director of Special Projects
Paul J. McKee	Director of Environmental Water and Wastewater Service
Mike Runzo	Safety and Training Manager
Jim Craker	Safety and Training Manager
Bob Bennett	Safety and Training Manager
Dave Ireland	Safety and Training Manager
Clayton King	Director of Testing and Research
John O'Loughlin	Safety and Training Manager
Martin Church	Safety and Training Manager
Edmundo Avila	Safety and Training Manager
Bruce Hughes	Safety and Training Manager
Bonnie Parten	Office Manager
Brian Pollom	Director of AMR/AMI Smart Grid
Tom Rasler	Director of Special Projects
Tom Verdecchio	Director of Energized Live-line Training Services
George Gela PhD., E.Eng.	Director of Testing and Research

### **ESCI Training Topics**

Overhead Work Methods Training  
200 & 600 Amp Underground Work Methods Training  
OSHA 1910 Update Training  
2017 NESC Part 4 Update  
Minimum Approach Distance (MAD) Training  
OSHA Two-Man Rule  
T & D Switching and Clearance Procedures  
Generation Switching and Clearance Procedures  
General Industry Lock/out Tag/out Training  
Pole Top Rescue Training  
Vault Rescue Training  
Bucket Truck Rescue Training  
FR body protection, application and usage  
Qualified Worker Training for Non-Journeymen

Ropes and Rigging Training  
Emergency Action Plan Training  
Disconnect/Reconnect of Revenue Meter Training  
Fall Protection Training  
Battery Safety Training  
Slips, Trips and Falls Training  
Safety Committee Training  
Accident Investigation Training  
Personal Protective Equipment Training  
Forklift Training  
Vault and Substation Confined and Enclosed Space Training  
Equipotential Grounding Training  
Underground Grounding Training  
Flagging Training and Certification (books are an additional fee)  
Hearing Conservation Training (Testing is additional fee)  
Office Safety  
Job Briefing Training  
Drug and Alcohol Abuse Training  
Hot Stick and Grounds Testing  
Respirator Training  
Tool Safety Training  
Cancer Awareness Training (breast, skin and prostate)  
First Aid/CPR training  
Bloodborne Pathogens Training  
Ergonomics Training for Office Workers  
Ergonomics Training for Operations groups  
Heat Exposure Training  
Hantavirus Training  
Dealing with Stress and Dealing with Irrate Customers Training  
Electrical Safety Training  
Right To Know Training  
Fire Extinguisher Training  
Electrical Burns and FR Clothing Training  
DOT Commercial Vehicle Inspection Training  
Chain Saw Safety Training  
Ladder and Stairway Safety Training  
Winter Driving Training

### **Work Methods and Policies**

ESCI will assist customers in developing or revising the following safety work methods and policies:

Safety Manual

T & D Switching and Clearance Policy

Generation Switching and Clearance Policy

General Industry Lock/out Tag/out Policy

MAD Policy

Grounding Policy

FR Clothing Policy

Confined Space Policy

Trenching and Shoring Policy

Heat Stress Policy

MSDS Policy

BBP Policy



## QUOTE

Printed: 3/31/2020

State of Nevada  
515 E. Musser Street, Suite 300  
Carson City, NV 89701

Required Date:		Quote ID
Promise Date:	3/14/20 12:00 AM	
Bid Number:	69CRC-S974	69CRC-VQ6887
Department:	Colorado River Commission	

V E N D O R	ESCI Inc PO Box 2822 Bellingham, WA 98227
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S H I P T O	State of Nevada 555 E Washington Ave 3100 Las Vegas, NV 89101
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Item	Class-Item Description	Quantity	Unit	Unit Price	Discount	Total
1	Energized electric system safety training and compliance	1.00	EA	\$ 2,500.00	\$ 0.00	\$ 2,500.00
2	Annual Safety and Wellness training: Develop and implement a monthly Safety and Wellness Training Program, 12 sessions per year enter price per session (Section 2.1.1 of the RFP)	48.00	EA	\$ 2,500.00	\$ 0.00	\$ 120,000.00
3	Annual Safety and Wellness Training: Conduct annual hearing tests. Enter the price of one test. Testing will be for approx. 12 employees. (Section 2.1.1.2 of RFP)	48.00	EA	\$ 50.00	\$ 0.00	\$ 2,400.00
4	Energized Electric Safety trainings, Develop and implement monthly. Enter total cost of all sessions per year (Section 2.2 of the RFP)	4.00	EA	\$ 30,000.00	\$ 0.00	\$ 120,000.00
5	Switchman Certification Program, develop and implement a program. Enter total cost of the program for one year. (Section 2.3 of RFP)	4.00	EA	\$ 2,800.00	\$ 0.00	\$ 11,200.00
6	Commercial Driver License Training, monitoring and records program. Enter the total cost for training 6 employees as requested in sections 2.4.1 through 2.4.1.4 of RFP.	24.00	EA	\$ 0.00	\$ 0.00	\$ 0.00
7	Commercial Driver License Training, monitoring and records program. Enter the individual cost for training an individual as requested in sections 2.4.1 through 2.4.1.4 of RFP.	4.00	EA	\$ 0.00	\$ 0.00	\$ 0.00
8	Safety Equipment and Materials, provide total cost as described in section 2.4.2 of this RFP. (Total costs not to exceed \$10,000 per calendar year)	4.00	EA	\$ 1,500.00	\$ 0.00	\$ 6,000.00
TOTAL:						\$ 262,100.00

**ENTITY INFORMATION****ENTITY INFORMATION****Entity Name:**

ESCI INC

**Entity Number:**

E0342952013-5

**Entity Type:**

Domestic Corporation (78)

**Entity Status:**

Active

**Formation Date:**

07/15/2013

**NV Business ID:**

NV20131420619

**Termination Date:**

Perpetual

**Annual Report Due Date:**

7/31/2020

**REGISTERED AGENT INFORMATION****Name of Individual or Legal Entity:**

NEVADA BUSINESS SERVICES

**Status:**

Active

**CRA Agent Entity Type:****Registered Agent Type:**

Commercial Registered Agent

**NV Business ID:****Office or Position:****Jurisdiction:**

NEVADA

**Street Address:**

1805 N CARSON STREET SUITE X, CARSON CITY, NV, 89701, USA

**Mailing Address:****Individual with Authority to Act:**

ELLEN RAMSEY and/or CLINTON REEVES

**Fictitious Website or Domain Name:****OFFICER INFORMATION**☐ **VIEW HISTORICAL DATA**

Title	Name	Address	Last Updated	Status
President	BRIAN ERGA	73 MARIGOLD DR, BELLINGHAM, WA, 98229, USA	07/01/2019	Active
Secretary	BRIAN ERGA	73 MARIGOLD DR, BELLINGHAM, WA, 98229, USA	07/01/2019	Active
Treasurer	BRIAN ERGA	73 MARIGOLD DR, BELLINGHAM, WA, 98229, USA	07/01/2019	Active
Director	BRIAN ERGA	73 MARIGOLD DR, BELLINGHAM, WA, 98229, USA	07/01/2019	Active

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**CURRENT SHARES**

Class/Series	Type	Share Number	Value
	Authorized	500	1.000000000000

Page 1 of 1, records 1 to 1 of 1

Number of No Par Value Shares:

**500**

Total Authorized Capital:

**1,000**

[Filing History](#)

[Name History](#)

[Mergers/Conversions](#)

[Return to Search](#)

[Return to Results](#)

**COLORADO RIVER COMMISSION OF NEVADA  
AGENDA ITEM F  
FOR MEETING OF APRIL 14, 2020**

**SUBJECT:**

*For Information Only:* Executive Director update on operations.

**RELATED TO AGENDA ITEM:**

None.

**RECOMMENDATION OR RECOMMENDED MOTION:**

None.

**FISCAL IMPACT:**

None.

**STAFF COMMENTS AND BACKGROUND:**

Staff will provide an update at the meeting.



**COLORADO RIVER COMMISSION OF NEVADA  
AGENDA ITEM G  
FOR MEETING OF APRIL 14, 2020**

**SUBJECT:**

*For Information Only:* Update on pending legal matters, including Federal Energy Regulatory Commission or Public Utilities Commission of Nevada filings.

**RELATED TO AGENDA ITEM:**

None.

**RECOMMENDATION OR RECOMMENDED MOTION:**

None.

**FISCAL IMPACT:**

None.

**STAFF COMMENTS AND BACKGROUND:**

Special Counsel will provide an update at the meeting.

**COLORADO RIVER COMMISSION OF NEVADA  
AGENDA ITEM H  
FOR MEETING OF APRIL 14, 2020**

**SUBJECT:**

*For Information Only:* Status update from Staff on the hydrological conditions, drought, and climate of the Colorado River Basin, Nevada's consumptive use of Colorado River water, the drought contingency plan, impacts on hydropower generation, electrical construction activities and other developments on the Colorado River.

**RELATED TO AGENDA ITEM:**

None.

**RECOMMENDATION OR RECOMMENDED MOTION:**

None.

**FISCAL IMPACT:**

None.

**STAFF COMMENTS AND BACKGROUND:**

Staff will provide report at the meeting.

**COLORADO RIVER COMMISSION OF NEVADA  
AGENDA ITEM I  
FOR MEETING OF APRIL 14, 2020**

**SUBJECT:**

Comments from the public. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken.)

**RELATED TO AGENDA ITEM:**

None.

**RECOMMENDATION OR RECOMMENDED MOTION:**

None.

**FISCAL IMPACT:**

None.

**STAFF COMMENTS AND BACKGROUND:**

**COLORADO RIVER COMMISSION OF NEVADA  
AGENDA ITEM J  
FOR MEETING OF APRIL 14, 2020**

**SUBJECT:**

Comments and questions from the Commission members.

**RELATED TO AGENDA ITEM:**

None.

**RECOMMENDATION OR RECOMMENDED MOTION:**

None.

**FISCAL IMPACT:**

None.

**STAFF COMMENTS AND BACKGROUND:**

**COLORADO RIVER COMMISSION OF NEVADA  
AGENDA ITEM K  
FOR MEETING OF APRIL 14, 2020**

**SUBJECT:**

Selection of the next possible meeting date.

**RELATED TO AGENDA ITEM:**

None.

**RECOMMENDATION OR RECOMMENDED MOTION:**

None.

**FISCAL IMPACT:**

None.

**STAFF COMMENTS AND BACKGROUND:**

The next meeting is tentatively scheduled for 1:30 p.m. on Tuesday, May 12, 2020 at the Grant Sawyer State Office Building, 555 East Washington Avenue, Room 4412, Las Vegas, Nevada 89101.

**COLORADO RIVER COMMISSION OF NEVADA  
AGENDA ITEM L  
FOR MEETING OF APRIL 14, 2020**

**SUBJECT:**

Adjournment.

**RELATED TO AGENDA ITEM:**

None.

**RECOMMENDATION OR RECOMMENDED MOTION:**

None.

**FISCAL IMPACT:**

None.

**STAFF COMMENTS AND BACKGROUND:**