

MEMORANDUM

TO: Board of Trustees

THROUGH: Bobby Magee, District General Manager

FROM: Kate Nelson, Interim Director of Public Works

SUBJECT: Review, Discuss and Approve the Agreement for the 30% Schematic Design Contract for Skate Park Enhancement Project - 2023/24 Capital Improvement Project; Fund: Community Services; Division: Parks; Project #4378BD2202; Contractor: Spohn Ranch, Inc. in the Amount of \$20,000. (Requesting Staff Member: Interim Public Works Director Kate Nelson)

RELATED FY 2023 STRATEGIC PLAN

BUDGET INITIATIVE(S):

LONG RANGE PRINCIPLE #1 - SERVICE

The District will provide superior quality service through responsible stewardship of District resources and assets with an emphasis on the parcel owner and customer experience.

LONG RANGE PRINCIPLE #5 – ASSETS AND INFRASTRUCTURE

The District will practice perpetual asset renewal, replacement and improvement to provide safe and superior long term utility services and recreation venues, facilities, and services.

RELATED DISTRICT POLICIES, PRACTICES, RESOLUTIONS OR ORDINANCES

Multi-Year Capital Planning Policy 12.1.0; Capital Project Budgeting Policy 13.1.0; Purchasing Policy for Public Works Contracts 21.2.0

DATE: April 10, 2024

I. RECOMMENDATION

That the Board of Trustees makes a motion to:

1. Approve the Award of the Progressive Design-Build Agreement with Spohn Ranch, for the Total Amount of \$20,000.00; and,
2. Direct the General Manager to sign and execute the Agreement.

II. BACKGROUND

The Incline Skate Park was constructed in 2001. For over 20 years, the skate park has been a destination for skateboarders of all ages. The skate park is adequate but was not designed for all skill levels, specifically young skaters needing more basic features to be able to advance their skills.

The Community Services Master Plan (CSMP), updated in 2019, included Top Tier and Second Tier Recommendations (Pages 132-139). A Second Tier Recommendation was the Skate Park Enhancement Project. The CSMP states, "The skate park has the potential to provide a better range of structures to meet both beginner and experienced user needs. The current design is focused more towards experienced users, which reduces overall use. The skate park is adequate but is not designed for multiple age groups/ability levels. Incorporating a variety of elements for both beginners, young skaters and experienced skaters will enhance the facility. These enhancements have community support and could greatly increase the use of community resources."

At the January 12, 2022, Board Meeting (Item G.4), the Skatepark Enhancement Project became a Board Priority Project. During the summer of 2022, Public Works Staff applied for and received a grant from Washoe County for enhancement of the Incline Skate Park. At the December 14, 2022, Board Meeting (Item G.1), the Board moved to accept the Washoe County Notice of Sub-award (Non-Competitive Grant) in the amount of \$250,000 for the purpose of enhancing the existing skate park.

During the May 25, 2023, Board Meeting (Item G.2), the Board approved a budgetary increase to the Skate Park Enhancement Project in an amount not to exceed \$500,000. The Board directed staff to release a Request for Proposals (RFP) requesting design-build services for the 30% schematic design options for both a \$250,000 project (Design #1) and a \$500,000 project (Design #2). Once these schematic designs and estimates have been developed, the Board will determine which project will best meet the community's needs.

The RFP solicited proposals for total project costs of \$250,000 and \$500,000; these proposed budgets include hard and soft project costs. The budgets include permitting, design, building, demolition, hazardous materials remediation (if required), new construction, site work, underground utilities such as drainage, landscaping, site furnishings and contingencies of two different sized skate park options: one estimated at approximately 2,000 square feet (SF); and the other at approximately 4,000 SF. The intent of the Board is to decide upon a design and related total project budget once the 30% Schematic design has been completed and presented for consideration.

III. BID RESULTS

The RFP was released pursuant to NRS 338.1711 for Design-Build. Two Design-

Build teams submitted Statements of Qualifications. Spohn Ranch, Inc. was determined by the Selection Committee to be the most qualified Design-Build team.

The proposed agreement for the 30% Design scope is included in ATTACHMENT A.

IV. FINANCIAL IMPACT AND BUDGET

The FY 2023/24 Budget includes funding in the amount of \$500,000. Project funding is provided through a grant award from Washoe County as well as funding from the General Fund for parks' operations, maintenance and capital projects.

V. ALTERNATIVES

VI. COMMENTS

The Owner and Design-Builder Preliminary Agreements have been reviewed and approved by Silver State Law.

VII. BUSINESS IMPACT/BENEFIT

This item is not a "rule" within the Nevada Revised Statute, Chapter 237 and does not require a Business Impact Statement.

VIII. ATTACHMENTS

- 1. 2024 Skate Park 30% Design Agreement - Final

IX. DECISION POINTS NEEDED FROM THE BOARD OF TRUSTEES

ConsensusDocs® 400

PRELIMINARY DESIGN-BUILD AGREEMENT BETWEEN OWNER AND DESIGN-BUILDER



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This Agreement is made this 11th day of April in the year 2024, by and between the OWNER, Incline Village General Improvement District, located at 893 Southwood Boulevard, Incline Village, Nevada and the DESIGN-BUILDER, Spohn Ranch, Inc., a California Corporation with its principal place of business at 6824 S. Centinela, Los Angeles, California, for preliminary services in connection with the following PROJECT:

INCLINE VILLAGE SKATE PARK IMPROVEMENTS PROJECT, CIP 4378BD2202, PWP WA-2024-156

Notice to the Parties shall be given at the above addresses.



ARTICLE 1 TEAM RELATIONSHIP

1.1 The Owner and the Design-Builder agree to proceed on the basis of trust, good faith and fair dealing, and shall take all actions reasonably necessary to perform this Agreement in an economical and timely manner. The Owner and the Design-Builders shall perform their obligations with integrity, ensuring at a minimum that: (a) conflicts of interest shall be avoided or disclosed promptly to the other Party; and (b) the Design-Builder and the Owner warrant that they have not and shall not pay nor receive any contingent fees or gratuities to or from the other Party, including their agents, officers and employees, Subcontractors or others for whom they may be liable, to secure preferential treatment.

ARTICLE 2 DESIGN-BUILDER'S RESPONSIBILITIES

The Design-Builder shall exercise reasonable skill and judgment in the performance of its services. Engineering services shall be procured from licensed, independent design professionals retained by the Design-Builder or furnished by licensed employees of the Design-Builder, or as permitted by the law of the State in which the Project is located. The person or entity providing engineering services shall be referred to as the Design Professional. If the Design Professional is an independent design professional, the engineering services shall be procured pursuant to a separate agreement between the Design-Builder and the Design Professional. The Design Professional for the Project is Aaron Spohn, President of Spohn Ranch, Inc.

The Design-Builder shall provide full design and engineering services necessary to complete 30% Schematic Documents for the Project for Design #1, approximate area of improvement 2,000 SF ±, and Design #2, approximate area of improvement 3,000 SF± and in accordance with the Owner's direction and design standards. Design services required are evaluation of the site and of the design criteria documents and other Project-related information; preparation of a preliminary schedule and preliminary estimate; preparing 30% Schematic Documents, including supporting the Owner's design review process, attending design review meetings, resolving review comments to the satisfaction of Owner; and performing work necessary to prepare and submit an acceptable cost estimate proposal within the expected cost range for the Project.

2.1 The Design-Builder is responsible for the following Preliminary Design-Build Services:

2.1.1 PRELIMINARY PROJECT SCHEDULE The Design-Builder shall provide a PRELIMINARY SCHEDULE for the Owner's written approval through the end of the Project, through final construction and Project closeout. The schedule shall show the activities of the Owner and the Design-Builder necessary to meet the Owner's completion requirements.

The PRELIMINARY PROJECT SCHEDULE will be developed through the end of construction and will include design milestones and delivery dates. The schedule will be in the form of the Critical Path Method and will be delivered on or before **April 25, 2024**.

2.1.2 PRELIMINARY ESTIMATE The Design-Builder shall prepare for the Owner's written approval a preliminary estimate utilizing area, volume, or similar conceptual estimating techniques. The level of detail for the estimate shall reflect the Owner's Program and any additional available information. If the preliminary estimate exceeds the Owner's budget, the Design-Builder shall make written recommendations to the Owner.

The PRELIMINARY ESTIMATE will be will be delivered in an excel spreadsheet and PDF format on or before **May 16, 2024**.



2.1.3 SCHEMATIC DESIGN DOCUMENTS The Design-Builder shall submit for the Owner's written approval SCHEMATIC DESIGN DOCUMENTS for Design #1 and Design #2 based on the agreed upon PRELIMINARY EVALUATION. SCHEMATIC DESIGN DOCUMENTS shall include drawings, outline specifications and other conceptual documents illustrating the Projects basic elements, scale and their relationship to the Worksite. One set of these Documents shall be furnished to the Owner. When the Design-Builder submits the SCHEMATIC DESIGN DOCUMENTS, the Design-Builder shall identify in writing all material changes and deviations from the Design-Builder's preliminary evaluation, schedule and estimate. The Design-Builder shall update the preliminary schedule and preliminary estimate based on the SCHEMATIC DESIGN DOCUMENTS.

The SCHEMATIC DESIGN DOCUMENTS will include the 30% Schematic Design of architectural and engineering drawings in both AutoCAD and PDF formats. The 30% Schematic Design will be delivered on or before **July 9, 2024**.

ARTICLE 3 OWNERSHIP OF DOCUMENTS

3.1 OWNERSHIP OF TANGIBLE DOCUMENTS Upon the making of final payment to the Design-Builder, the Owner shall receive ownership of the property rights, except for copyrights, of all documents, drawings, specifications, electronic data and information (hereinafter "Documents") prepared, provided or procured by the Design-Builder, its Design Professional, Subcontractors or Design-Builders and distributed to the Owner for this Project.

3.2 COPYRIGHT The Parties agree that Owner shall obtain ownership of the copyright of all Documents. The Owner's acquisition of the copyright for all Documents shall be subject to the making of payments as required by ARTICLE 6 and the payment of the fee reflecting the agreed value of the copyright set forth below:

3.3 OWNER'S USE The Owner shall not have the right to use, reproduce or make derivative works of the Design-Build Documents for other projects without the written authorization of the Design-Builder, who shall not unreasonably withhold consent. The Owner's use of the Design-Build Documents on other projects or without the Design-Builder's written authorization or involvement is at the Owner's sole risk, and the Owner shall indemnify and hold harmless the Design-Builder, the Design Professional and Subcontractors, and the agents, officers, directors and employees of each of them from and against any and all claims, damages, losses, costs and expenses, including but not limited to attorneys' fees, costs and expenses incurred in connection with any dispute resolution process, arising out of or resulting from such use of the Design-Build Documents.

3.4 DESIGN-BUILDER'S USE Where the Design-Builder has transferred its copyright interest in the Documents, the Design-Builder may reuse Documents prepared by it pursuant to this Agreement in its practice, but only in their separate constituent parts and not as a whole. The Design-Builder shall obtain from its Design Professional, Subcontractors and Design-Builders property rights and rights of use that correspond to the rights given by the Design-Builder to the Owner in this Agreement.

ARTICLE 4 OWNER'S RESPONSIBILITIES

4.1 The Owner shall provide to the Design-Builder all relevant information for the Project. The Owner shall timely review and approve schedules, estimates, Schematic Design Documents and other documents provided under this Agreement.

4.2 OWNER'S ELECTION TO PROCEED If the Owner elects to proceed with the Project beyond the Preliminary Design-Build Services provided in this Agreement, the Owner and the Design-Builder shall enter into an additional agreement for the completion of the design and the construction of the Project. If



the Owner elects not to proceed with the Project, the Owner shall have no further obligation to the Design-Builder other than the payment of compensation as set forth in this Agreement.

ARTICLE 5 CONTRACT TIME

5.1 The Design-Builder's Services provided under this Agreement shall commence on or about April 1, 2024, and shall be completed on or about June 30, 2024.

ARTICLE 6 COMPENSATION

6.1 The Owner shall compensate the Design-Builder monthly for Preliminary Design-Build Services performed under the Agreement on the following basis:

A stipulated sum in the amount of **Twenty Thousand Dollars (\$20,000)** that shall be paid for in progressive payment proportionate to the deliverables.

If the Owner elects to proceed with the Project beyond the Preliminary Design-Build Services provided in this Agreement, the Owner and the Design-Builder shall enter into additional agreements for the completion of the design and the construction of the Project.

ARTICLE 7 INSURANCE

7.1 The Design-Builder shall obtain insurance for claims arising from the negligent performance of professional services under this Agreement, which shall be:

Minimum Limits of Insurance. Design-Builder shall maintain limits no less than: (1) General Liability: \$5,000,000 per occurrence for bodily injury, personal injury and property damage, and shall be endorsed to include contractual liability. Limits can be satisfied by providing Excess Liability coverage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) Automobile Liability: \$2,000,000 combined single limit (each accident) for bodily injury and property damage; and (3) Industrial Insurance: Workers' Compensation limits as required by the Labor Code of the State of Nevada. Employer's Liability limits of \$1,000,000 per accident for bodily injury or disease; and (4) Professional Liability/Errors and Omissions: Design-Builder shall procure and maintain, and require its sub-Design-Builders to procure and maintain, for a period of five (5) years following completion of the Services, professional liability/errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than \$2,000,000 per claim. "Covered Professional Services" as designated in the Professional Liability/Errors and Omissions policy must specifically include work performed under this Agreement.

7.1.1 Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as additional insured pursuant to this Agreement. Defense costs shall be payable in addition to the limits.

7.1.2 Insurance Endorsements. The insurance policies shall contain the following provisions, or the Design-Builder shall provide endorsements on forms supplied or approved by the Owner to add the following provisions to the insurance policies:

7.1.2.1 Commercial General Liability. The commercial general liability policy shall be endorsed to provide the following: (1) the Owner, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds; (2) the insurance coverage shall be primary insurance as respects the Owner, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an



unbroken chain of coverage excess of the Design-Builder's scheduled underlying coverage. Any insurance or self-insurance maintained by the Owner, its directors, officials, officers, employees, agents and volunteers shall be excess of the Design-Builder's insurance and shall not be called upon to contribute with it in any way; and (3) the insurance coverage shall contain or be endorsed to provide waiver of subrogation in favor of the Owner, its directors, officials, officers, employees, agents and volunteers or shall specifically allow Design-Builder to waive its right of recovery prior to a loss. The Design-Builder hereby waives its own right of recovery against Owner, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

7.1.2.2 Automobile Liability. The automobile liability policy shall be endorsed to provide the following: (1) the Owner, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Design-Builder or for which the Design-Builder is responsible; (2) the insurance coverage shall be primary insurance as respects the Owner, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Design-Builder's scheduled underlying coverage. Any insurance or self-insurance maintained by the Owner, its directors, officials, officers, employees, agents and volunteers shall be excess of the Design-Builder's insurance and shall not be called upon to contribute with it in any way; and (3) the insurance coverage shall contain or be endorsed to provide waiver of subrogation in favor of the Owner, its directors, officials, officers, employees, agents and volunteers or shall specifically allow Design-Builder to waive its right of recovery prior to a loss. The Design-Builder hereby waives its own right of recovery against Owner, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

7.1.2.3 Industrial (Workers' Compensation and Employers Liability) Insurance. The insurer shall agree to waive all rights of subrogation against the Owner, its directors, officials, officers, employees, agents and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Design-Builder.

7.1.2.4 All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Owner; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the Owner, its directors, officials, officers, employees, agents and volunteers.

7.1.3 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the Owner, its directors, officials, officers, employees, agents and volunteers.

7.1.4 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Owner. Design-Builder shall guarantee that, at the option of the Owner, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Owner, its directors, officials, officers, employees, agents and volunteers; or (2) the Design-Builder shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

7.1.5 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 Owner



in no way warrants that the above-required minimum insurer rating is sufficient to protect the Design-Builder from potential insurer insolvency.

7.1.6 Verification of Coverage. Design-Builder shall furnish the Owner with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the Owner. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the Owner if requested. All certificates and endorsements must be received and approved by the Owner before work commences. The Owner reserves the right to require complete, certified copies of all required insurance policies, at any time.

7.1.7 3.2.10.8 Subconsultants. Design-Builder shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the Owner that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultant shall be endorsed to name the Owner as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Design-Builder, Owner may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultant.

7.1.8 Compliance With Coverage Requirements. If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Owner has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Owner will be promptly reimbursed by Design-Builder or Owner will withhold amounts sufficient to pay premium from Design-Builder payments. In the alternative, Owner may terminate this Agreement for cause.

7.1.9 Safety. Design-Builder shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Design-Builder shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed.

SIGNATURES ON FOLLOWING PAGE.



**OWNER:
INCLINE VILLAGE G. I. D.**

Agreed to:

By:

Bobby Magee
District General Manager

Date

Reviewed as to Form:

Sergio Rudin
District General Counsel

Date

**DESIGN-BUILDER:
SPOHN RANCH, INC.**

Agreed to:

By:

Signature of Authorized Agent

Kirsten Dermer, CEO
Print or Type Name and Title

4/3/24
Date

