

Mayor  
Shari L. Buck

Council Members  
William E. Robinson  
Robert L. Eliason  
Anita G. Wood  
Richard J. Cherehio



City Manager  
Gregory E. Rose

*Your Community of Choice*

Dwight Rawlinson-Purchasing/Risk Manager  
2200 Civic Center Drive • North Las Vegas, Nevada 89030  
Telephone: (702) 633-2438 • Fax: (702) 399-8099 • TDD: (800) 326-6868  
[www.cityofnorthlasvegas.com](http://www.cityofnorthlasvegas.com)

November 18, 2009

**CITY OF NORTH LAS VEGAS  
REQUEST FOR PROPOSAL 007-015  
HUMAN RESOURCES TEMPORARY AGENCY SERVICES**

**Proposals will be received** in the Office of the City Clerk, 2200 Civic Center Drive, North Las Vegas, Nevada, 89030 **until 2:00 p.m. on December 21, 2009** and will be publicly opened and read shortly thereafter in the City Clerk's Conference Room at the previous address in City Hall.

**A Pre-Proposal Conference** will be held on, **December 1, 2009 at 11:00 a.m.** in the **City Council Chambers** located in City Hall at 2200 Civic Center Drive, North Las Vegas, NV 89030. The purpose of this conference is to discuss the Request for Proposal requirements and answer any questions or concerns. Attendees should submit their questions and/or concerns by mail to Renee' Swanson-Buyer, City of North Las Vegas, 2200 Civic Center Drive, North Las Vegas, NV 89030 or by e-mail at [swansonr@cityofnorthlasvegas.com](mailto:swansonr@cityofnorthlasvegas.com). **The cutoff for questions and answers will be December 8, 2009 at 12:00 p.m. PST.**

PROPOSAL documents can be picked up in the Purchasing & Risk Management Office, Monday through Thursday, 8:00 a.m. - 4:00 p.m. at the address above. Proposal documents may also be accessed at [www.rfpdepot.com](http://www.rfpdepot.com), [www.demandstar.com](http://www.demandstar.com) or under the Purchasing/Risk Management Web page [www.cityofnorthlasvegas.com](http://www.cityofnorthlasvegas.com).

The City reserves the right to reject any and all Proposals, waive any informality or technicality or to otherwise accept Proposals deemed in the best interest of the City.

Karen Storms, CMC  
City Clerk

**Published Review Journal  
November 20, 2009**

**REQUEST FOR PROPOSAL  
007-015 HUMAN RESOURCES TEMPORARY AGENCY SERVICES**

**GENERAL PROVISIONS**

**1. ADDENDA INTERPRETATIONS:**

If it becomes necessary to revise any part of this RFP, a written addendum will be provided. The City is not bound by any oral clarifications changing the scope of work for this project.

**2. PUBLIC RECORDS:**

The RFP document and all proposals submitted in response thereto are public records. You are cautioned to not put any material into the proposal that is proprietary in nature. All proposals submitted become the property of the City.

**3. PERFORMANCE OF WORK:**

The selected firm shall perform all work as may be necessary to complete the contract in a satisfactory and acceptable manner, and unless otherwise provided, shall furnish all transportation, materials, equipment, labor and incidentals necessary to complete the project.

**4. FORM OF CONTRACT:**

Execution of the attached contract agreement (sample attached), by all named parties and issuance of a Purchase Order will authorize delivery of services obtained under this proposal.

**5. LABELING OF PROPOSALS:**

All proposals must be submitted in a sealed envelope plainly marked, "RFP NO. 007-015 HUMAN RESOURCES TEMPORARY AGENCY SERVICES" with address of the firm in the upper left hand corner. No responsibility will attach to the City, any official or employee thereof, for the pre-opening, post-opening, or failure to open, a proposal not properly addressed and identified.

**6. EXPLANATION TO PROPOSERS:**

Any explanations desired by PROPOSERS regarding the meaning or interpretation of specifications must be requested in writing and with sufficient time allowed for a reply to reach them before submission of their proposals. Oral explanations given before the award of the contract will not be binding. Any written interpretation made will be furnished to all respondents and its receipt by the RESPONDENT will be acknowledged.

Interpretation of the meaning of the plans, specifications or other pre-proposal documents will not be binding if presented to any RESPONDENT orally. Every request for such interpretation should be in writing addressed to RENEE' SWANSON, BUYER, [swansonr@cityofnorthlasvegas.com](mailto:swansonr@cityofnorthlasvegas.com), or ATTN: Renee' Swanson, City of North Las Vegas, 2200 Civic Center Drive, North Las Vegas, NV 89030. Any and all such interpretations and any supplemental instructions deemed necessary will be in the form of written addenda to the specifications which, if issued, will be mailed to all known perspective RESPONDENTS.

Failure of any RESPONDENT to receive any such addendum or interpretation shall not relieve such RESPONDENT from any obligation under this proposal as submitted. All addenda so issued shall become part of the Contract Documents.

***The cutoff date for any questions regarding this project is: December 8, 2009 at 12:00 p.m. PST.*** Any written questions beyond the cut off time will not be answered.

**7. METHOD OF EVALUATION AND AWARD:**

The evaluation criteria as listed below by each category and how the percentages will be applied.

**8. SUBMITTAL REQUIREMENTS:**

Submit one original and three copies of the proposal.

All proposals shall be on 8-1/2" X 11" paper, with tabbed dividers labeled by sections to correspond with the format below:

**EVALUATION INFORMATION: Proposals should contain the following information:**

**A. Business Summary: (100) points max)**

Describe the background and history of your agency including:

1. Agency headquarters address.
2. Address from which the requirement will be performed.
3. How long your agency has been involved in performing temporary office personnel services.
4. Projected and/or anticipated changes in your agency's organization in the foreseeable future.
5. Provide your agency's sample contract/agreement, and required Nevada business license and certificates of insurance.
6. Provide written documentation that all temporary employees provided through your agency will be considered your agency's employees, and that your agency will be responsible for maintaining State and Federal mandated deductions including payroll taxes.

**B. Business Experience: (150) points max)**

1. Provide a brief resume of your agency's experience in providing non-technical and technical skilled persons to government and commercial agencies during the past three years.

Following is a listing of sample areas in which the City may require temporary agency employees. This is not meant to be an all-inclusive list. There may be other employment needs not included on this list, some of which may require special licensing, certifications, or registrations.

IT Analyst/Technicians  
Maintenance Labor Workers

Roadway/Survey Field Workers  
Financial/Accounting Technicians

Clerical/Administrative Support  
Paralegal Office Support

Legal Clerical Support  
Civil Engineering-Technical &  
Administrative Support

2. Provide evidence of your agency's ability to comply with the Scope of Work as defined in this Request for Proposal. Include documentation of your agency's history of adherence to budget and schedule constraints. Reference letters can be provided and may be considered. This information shall include a current name and phone number of a contact person who is knowledgeable about your agency. All agencies are encouraged to indicate their experience of performing related work within the State of Nevada. All agencies may indicate if they are small, minority, women-owned or disadvantaged business enterprises.
3. Describe the steps your agency will take after job assignments have been made to ensure your agency meets the needs of your client.
4. Describe the types of positions your agency most commonly fills, and the types of positions you have the ability to fill. We are seeking a single source provider for all our temporary staffing needs.
5. Indicate your agency's response and years of experience in providing temporary personnel placement services for:

City of North Las Vegas	Yes___	No___	Years_____
Public Sector	Yes___	No___	Years_____
IT Analysts/Technicians	Yes___	No___	Years_____
Roadway/Survey Field	Yes___	No___	Years_____
Manual Labor Field	Yes___	No___	Years_____
Financial/Accounting Field	Yes___	No___	Years_____
Clerical Administrative Support	Yes___	No___	Years_____
Legal Clerical Support	Yes___	No___	Years_____
Paralegal Support	Yes___	No___	Years_____
Maintenance Worker Field	Yes___	No___	Years_____
Civil Engineering Field	Yes___	No___	Years_____

6. Percentage of Annual Job Orders  
in Public Sector \_\_\_\_\_%
- Percentage of Annual Job Orders  
in Private Sector \_\_\_\_\_%

**C. Costing/Fee Proposal: (500) points max)**

Provide or describe your agency's:

1. Procedure and cost for replacement of unsuccessful temporary placement. Including response and turn around times.
2. Procedure and cost for drug screening, background checks, etc.
3. Policy for overtime pay.

4. Proposed pricing and fee schedule with date of last rate increase.
5. Mark-up percentage rate.
6. Mark up rate if client request only to payroll an individual referral.
7. Client volume discount and the contingencies which apply.
8. Describe in detail any and all cost saving and cost cutting methods and/or proposals you would present to the City.

**D. Staff Qualifications: (100) points max)**

1. Provide information concerning the educational background, experience and knowledge of strategic staffing, ability to plot real workloads, etc. and professional resumes of those persons who would actually make the placements.

Proposer(s) need not provide actual names of employees when submitting resumes subject to the requirements of the RFP. However, if selected as a finalist, proposer must disclose actual employees names matching the resumes submitted with RFP.

**E. Agency's Sample Forms: (50) points max)**

1. Provide a blank employee application, employee timecard, employee contract or agreement which the employee is required to sign at the time of application with your agency.
2. Detail the types of client reports your agency provides to clients and timeframes for delivery of such reports.
3. Provide listing of specialty reports and custom reports created for clients and the timeframes for delivery of such reports.

**F. Agency Information: (200) points max)**

1. Business work schedule (days/hours of operation)
2. Your agency's recruitment process, screening process, testing process and interview procedures to provide an effective client placement.
3. Your agency's drug screening, background checks, and related processes.
4. Your agency's orientation process.
5. Your agency's employee separation process.
6. Average response time on filling orders.
7. Period of time before temporary placement is transitioned to payroll costs only.
8. Period of time before temporary placement can be hired by client with no penalty or cost.
9. Years and types of service(s) provided in Nevada to public sector clients.
10. Years and types of service(s) provided to City of North Las Vegas.
11. Average annual percentage of new clients your agency has obtained over the past three years.

**G. Quality of Service: (200) points max)**

Provide or describe your agency's:

1. Approach to providing quality client service.
2. Steps taken to ensure client satisfaction.
3. Process used to resolve client issues.
4. Specific client needs your firm recently had to adapt to in order to provide and maintain quality service.

**9. ASSIGNMENT OF CONTRACTUAL RIGHTS:**

It is agreed that this contract must not be assigned, transferred, conveyed, or otherwise disposed of by either party in any manner, unless approved in writing by the other party. The firm or firms will be an independent service provider for all purposes and no agency, either expressed or implied, exists.

**10. AWARD OPTIONS:**

The City of North Las Vegas reserves the right to award this RFP on any basis which is in its best interest.

**11. CONDITIONS OF PROPOSAL SUBMITTAL:**

- A. The proposal must be signed by a duly authorized official of the proposing firm submitting the proposal.
- B. No proposal will be accepted from any person, firm or corporation that is in arrears for any obligation to the City, or that otherwise may be deemed irresponsible or unresponsive by City staff or City Council.
- C. Only one proposal will be accepted from any person, firm, or corporation.
- D. All proposals shall be prepared in a comprehensive manner as to content, but no necessity exists for expensive binders or promotional material.

**12. PROPOSAL PROTESTS:**

Any individual or company who submits a PROPOSAL on the contract may file a notice of protest regarding the award of the contract. The protest must be submitted in writing to the City Clerk within five (5) business days after the date on which PROPOSALS were opened. The written protest must include a statement setting forth, with specificity, the reasons the person filing the protest believes that applicable provisions of the contract documents or law were violated. At the time a notice of protest is filed, the person filing such notice of protest shall post a bond with a good and solvent surety authorized to do business in the State of Nevada, and supply it to the City Clerk. The bond posted must be in an amount equal to the lesser of: twenty-five (25) percent of the total value of the PROPOSAL submitted by the person filing the notice of protest; or two hundred fifty thousand dollars (\$250,000).

A notice of protest filed in accordance with this section shall operate as a stay of action in relation to the award of the contract until a determination is made by the North Las Vegas City Council. A person who makes an unsuccessful PROPOSAL may not seek any type of judicial intervention until after the North Las Vegas City Council has made a determination on the notice of protest and awarded the contract. Neither the City nor any authorized representative of the City is liable for any costs, expenses, attorney's fees, loss of income or other damages sustained by a person who submits a PROPOSAL, whether or not the person files a notice of protest pursuant to this section.

If a protest is upheld, the bond posted and submitted with the notice of protest will be returned to the person who posted the bond. If the protest is rejected, a claim may be made against the bond by the City in an amount equal to the expenses incurred by the City because of the unsuccessful protest.

**13. LICENSES:**

All RESPONDENTS must have appropriate licenses in accordance with the laws of the State of Nevada, prior to submission of proposals for this project. All proposals received in violation of this law shall be rejected and returned to the PROPOSER.

**14. PUBLIC OPENING:**

Proposals received will be opened and the name of the submitting company will be read publicly at the time and place indicated in the "Request for Proposal". The PROPOSERS, their authorized agents and public are invited to be present.

No responsibility will attach to any OWNER official for the pre-opening of, or the failure to open, a proposal not properly addressed or identified.

**15. TERMS OF THE AGREEMENT:**

This AGREEMENT commences upon the date it is approved by the CITY and shall end three (3) years thereafter with the option to renew for two one-year periods.

**16. INSURANCE:**

The Service Provider shall furnish to the City a policy or certificate of protective liability insurance in which the City shall be the named insured or be named in such insurance as an additional insured with the Service Provider. In compliance with this provision, the Service Provider may file with the City a satisfactory policy providing a minimum \$1,000,000 "blanket coverage" policy or certificate of insurance. The policy shall insure the City and its officers and employees while acting within the scope of their duties against all claims arising out of or in connection with the work to be performed and shall remain in full force and effect until the work is accepted by the City. The policy shall provide the following minimum limits:

GENERAL LIABILITY

Bodily Injury - - - - -	\$ 1,000,000 each person
	\$ 1,000,000 each accident
Property Damage - - - - -	\$ 1,000,000 each accident
COMBINED SINGLE LIMIT OF \$1,000,000	

Such insurance shall include the specific coverages set out herein and be written for NOT LESS THAN the limits of liability and coverages provided herein, or required by law and other governing agencies, whichever is greater.

Such policy shall provide coverage at least as broad as that provided in the Standard Form approved by the National Bureau of Casualty Underwriters together with such endorsements as are required to cover the risks involved. In addition, the Service provider shall furnish evidence of a commitment by the insurance company to notify the City by registered mail of the expiration or cancellation of the insurance policies required not less than 30 days before the expiration or cancellation is effective.

The cost of this insurance shall be deemed included in the prices for the various items of work and no additional compensation will be made therefore.

**17. WORKMEN'S COMPENSATION INSURANCE:**

The Service provider shall secure, maintain in full force and effect and bear the cost of complete Workmen's Compensation Insurance in accordance with the Nevada Industrial Insurance Act - Nevada Revised Statutes, Chapter 616, for the duration of the contract and shall furnish the City, prior to the execution of the contract, a Certificate of Insurance which meets the requirements of the Nevada Industrial Insurance Act. The City, or any of its officers or employees will not be responsible for any claims or suits in law or equity occasioned by the failure of the Service provider to comply with the provisions of this paragraph.

**18. INDEMNITY:**

The successful PROPOSAL agrees to defend, indemnify, and hold the City harmless from any and all causes of action or claims arising out of or related to the proposer's performance on this project.

**19. PROVISIONS PROVIDED BY LAW:**

Each and every provision and clause required by law to be inserted in the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract forthwith shall be physically amended to make such insertion or correction.

The PROPOSER'S attention is directed to the fact that all applicable City, County, State and Federal laws, and the rules and regulations of all authorities having jurisdiction over the project shall apply to the contract throughout and they will be deemed to be included in the contract the same as though herein written out in full.

**20. CANCELATION OF CONTRACT:**

The OWNER reserves the right to cancel the award or execution of any contract at any time before the Purchase Order has been issued without any liability or claims thereof against the OWNER.

**21. TAXES:**

The City is exempt from State, retail and Federal Excise Tax. The proposal price must be net, exclusive of taxes.

**22. INDEMNITY:**

The successful proposer agrees to defend, indemnify, and hold the City harmless from any and all causes of action or claims arising out of or related to the PROPOSERS's performance on this project.

**23. EXCEPTIONS:**

Each PROPOSER will list on a separate sheet of paper any exceptions to specifications and attach it to their proposal.

**24. SCOPE OF WORK FOR REQUEST FOR PROPOSAL**

**Selected vendor(s) shall at minimum:**

Provide the City of North Las Vegas at a department location designated by a request with temporary personnel with the skill, knowledge and experience required by the City to perform as a temporary agency employee the duties, functions and responsibilities of the position(s) requested.

The City shall have the right to determine the period of time and work schedule of all personnel provided by the selected agency(ies) to perform services as a temporary agency employee. The City will not warrant or guarantee the period of time or work schedule of any person provided by the agency(ies) to perform services at a designated department at the City.

Should any person terminate employment with the selected agency(ies) while such person is providing services to a City department, selected agency(ies) must agree to immediately replace such person with a person having similar skills, knowledge and experience without any additional charges.

The City may request agency(ies) to provide certain named or specifically identified persons with unique skills, knowledge and experience or may provide the agency(ies) with an individual referral that the City has identified and that the agency(ies) will payroll for the City.

After a defined period of time, the City may hire the temporary employee with no penalty or cost to the City. Selected agencies will propose that defined period of time.

After a defined period of time, a temporary employee will transition to payroll costs only. Selected agencies will propose that defined period of time.

Temporary employees provided by the selected agency(ies) shall not smoke inside the City buildings and shall not consume alcoholic beverages nor be under the influence of alcohol or non-prescribed drugs. Use of illegal drugs on duty by personnel employed by the selected agency(ies) shall be cause for immediate termination of such employee by the agency. Selected agency(ies) will assume responsibility for advising their employees with respect to specific City policies dealing with smoking, alcohol and illegal drug use.

Upon request from the City, selected agency(ies) must replace immediately any personnel providing services whose quality of service is unsatisfactory to that City department. The City will not be charged for any unsatisfactory services. The selected agency(ies) must agree that the determination

of whether the quality of the services of any temporary personnel is satisfactory or unsatisfactory is one made exclusively by the City.

Selected agency(ies) must agree to provide only skilled, knowledgeable, and experienced personnel to perform services on a temporary basis to the City. Agency(ies) must also agree to provide the City information on any candidate(s) whose quality of services had been previously determined to be unsatisfactory by any City department.

Any temporary staffing employee selected for placement in a City department must successfully complete a background check conducted by the North Las Vegas Police Department, and a drug screening analysis conducted by an agency selected by the City prior to placement.

Selected agency(ies) must inform the City if any temporary staffing employee who will be accepted for assignment at the City is currently on an active assignment elsewhere.

Selected agency(ies) will assign staff member(s) who will become specialized in the City's needs for temporary personnel and will work closely with designated City staff to ensure effective and efficient placements. The following listing provides examples for which the City may need temporary agency employees. Examples of position types include but limited to: Office Clerk, Receptionist, File Clerk, Legal Office Clerk, Food Service Trainee, IT Professionals/Analysts/Technicians, Maintenance Helper (manual labor), Parks and/or Roadway Maintenance Helpers (manual labor). This is not meant to be an all-inclusive list. There may be other employment needs not included on this list, some of which may require special licensing, certifications, or registrations.

The selected agency(ies) will agree not to place an individual in any City department without the approval of the Human Resources Department.

The selected agency(ies) will agree not to place any individual in a temporary assignment with the City who was previously employed by the City as a regular employee without approval of the Human Resources Department.

The selected agency(ies) will agree to provide the City with any statistical data on temporary employee placement for any time period during the year, on a monthly basis, and on an annual basis through December 31<sup>st</sup> of each year.

The selected agency(ies) will agree to provide the City with custom reports on temporary employees as requested.

The selected agency(ies) will invoice monthly for individual temporary employees placed at the City. The City reserves the right to cancel such services with vendor at any time.

The selected agency(ies) will be required to provide additional services as listed below. The cost of these services must be included in the fee schedule for service.

- a. Develop and manage a program for recruiting and retaining qualified

- temporary employees for the City.
- b. Create standard employee screening and testing for various positions in the City to ensure candidates considered by the City for temporary assignments are the best qualified based on position requirements.
  - c. Create a temporary employee orientation program relative to City goals, policies and core values.
  - d. Create and maintain a data base to include all temporary personnel, listed by individual, to include rate of hourly pay, total hourly bill rate, total number of hours worked monthly, total number of hours worked annually, total number of overtime hours worked, total hourly rate paid for overtime hours, total hourly rate paid to the temporary employee, total bill rate paid by the City, date temporary employee began assignment with the City and date temporary employee ended assignment with the City. This data will be forwarded to the City on a monthly basis with a cumulative report sent at the end of the calendar year.
  - e. Conduct annual business reviews and planning sessions with Human Resources to evaluate the following:
    - Agency(ies) effectiveness
    - Areas for improvement
    - Financial analysis
  - f. Comply with temporary placements as set forth in City policies, procedures, ordinances, collective bargaining agreements

The City will process invoice within sixteen (16) City business days upon receipt of the invoice.

**Quality of Service Standards – Temporary Staffing Agency(ies):**

1. The City of North Las Vegas' expectations for services included in this RFP include the following:

Response Time on Order:	Within four hours agency(ies) selected will provide the latest possible time order can be received for next business day's fulfillment. Orders filled within one business day.
Customer Satisfaction	100% guarantee to all City locations. Upon notification, charges for unsatisfactory service will be cancelled upon mutual agreement between the city and selected agency(ies) and a replacement provided ASAP
No Minimum Lead Time:	Work on order immediately
Invoice/billing accuracy:	100%

Customer Service Satisfaction: 100%

2. The minimum quality of service standards set forth above recognizes that occasional errors are likely. However the selected agency(ies) agree(s) to use best efforts to achieve 100% quality of service level. Should the quality levels fall below the minimum standards and the selected agency(ies) does not take corrective action within two (2) business days following the City's notification, the City reserves the right to terminate the agreement.
3. No substitution of staff with a lower skill-base will be acceptable without the prior approval of the City.

Program Administration:

The selected agency(ies) shall provide the following functions:

1. Provide an account manager or representative for on-going monitoring and maintenance.
2. Develop a program for regular monitoring and comparative pricing with pricing available from competitors in same marketplace.
3. Schedule quarterly meetings with Human Resources Department to discuss open issues, upcoming City needs, etc.
4. Provide quarterly report to Human Resources Department to ensure accurate budget and program monitoring.

Reporting Requirements:

1. Monthly/quarterly/annual report to track name of each temporary employee, including department assigned, position title, rate of pay, total bill rate(including percentage of markup),start date, end date (or anticipated end date), total hours worked, total overtime hours worked, and total amount invoiced to date.
2. Monthly/quarterly/annual report to track order fulfillment rate for requests for temporary agency employees by location, position title, date of request, and date temporary order request filled.
3. Monthly/quarterly/annual report to track order fulfillment rate for rush orders by location, position title, date of request, and date temporary rush order request filled.
4. Monthly/quarterly/annual report to track all invoices paid to date.
5. Monthly/quarterly/annual report to track the aging of all outstanding invoices.
6. Any other reports as reasonably requested by the City without incurring a charge for such report.

**CITY OF NORTH LAS VEGAS**



**REQUEST FOR PROPOSAL 007-015  
HUMAN RESOURCES TEMPORARY SERVICES**

**SAMPLE CONTRACT**

(Sample)

**AGREEMENT BETWEEN CITY OF NORTH LAS VEGAS  
AND  
[insert legal name of other party-]**

**THIS AGREEMENT BETWEEN THE CITY OF NORTH LAS VEGAS AND [insert legal name of other party-]** (this "AGREEMENT") is executed this \_\_\_ day of \_\_\_\_, 200\_\_ by and between the City of North Las Vegas, a Nevada municipal corporation (the "CITY") and [insert legal name of other party, a [insert name of state and type of entity the other party is-] (the "SERVICES PROVIDER").

**RECITALS**

1. The City desires to contract for HUMAN RESOURCES TEMPORARY AGENCY SERVICES (the "PROJECT");

2. The Services Provider is experienced in HUMAN RESOURCES TEMPORARY AGENCY SERVICES (the "SERVICES");

3. The City desires to have the Services Provider perform **ALL** of the Project, and the Services Provider agrees to such performance, upon the terms and conditions described in this Agreement;

**NOW, THEREFORE**, upon good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Services Provider agree to the following terms, conditions and covenants:

**SECTION ONE  
RESPONSIBILITY OF SERVICES PROVIDER**

In addition to any other obligations of Services Provider under this Agreement, the Services Provider has the following responsibilities:

1.1. The Services Provider shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by the Services Provider, by Services Provider's subcontractors, and by any of the principals, officers, employees and agents of Services Provider and any subcontractor under this Agreement.

1.2. The Services Provider hereby designates [insert name of Services Provider's contact person ] as the employee, agent or representative of Services Provider who is (1) responsible for making sure the Scope of Work (as defined below) is performed in its entirety on time and on budget, and (2) the point-of-contact for the City for all matters concerning the Project, and (3) authorized to make all decisions and take all actions necessary to pay, perform and deliver all obligations of Services Provider pursuant to the terms and conditions of this

Agreement (the "**RESPONSIBLE PERSON**"). All of the responsibilities of the Services Provider specified by this Agreement shall be performed by the Responsible Person, or by the Services Provider's associates, employees and subcontractors under the personal supervision of the Responsible Person. If the Responsible Person becomes unable to serve in the capacity of Responsible Person for any reason, the Services Provider shall notify the City in writing of such inability, and shall, within four (4) calendar days thereafter, nominate a replacement for City approval, in its reasonable discretion, who has an equivalent amount of experience performing the same type of Services as required for the Project. The Services Provider shall promptly replace any Responsible Person deemed by the City to be unacceptable with a Responsible Person who is acceptable to the City.

1.3. The Services Provider shall not reproduce, display, or otherwise use the name, logo or any other intellectual property, including without limitation, any trade name, mark, patent or copyright, of the City without the City's prior written consent.

1.4 The Services Provider shall not send or publish to any third party any correspondence related to the Project or this Agreement without the City's prior written approval thereof.

1.5. The Services Provider, and its agents, employees, and subcontractors will cooperate with the City in the performance of this Agreement and will be available for consultation with the City at all reasonable times during normal business hours or at all other times with twenty-four hours advance notice.

1.6. The Services Provider shall perform all of its obligations under this Agreement in compliance with the Project Schedule attached hereto and incorporated herein as Exhibit A, as such may be modified or amended from time to time by mutual agreement of the City and the Services Provider (the "**PROJECT SCHEDULE**"). **[Attach the task by task completion timeline (whether in a Critical Path format or other method) as Exhibit A]** The Services Provider shall commence the Project on \_\_\_\_\_, 200\_, and complete the Project by \_\_\_\_\_, 200\_ **[See #8-CTW]**.

A. At any time that the Services Provider falls behind schedule, the Services Provider shall promptly notify the City of such fact and, at its own expense, shall promptly take all actions necessary to come back into compliance with the Project Schedule, including without limitation, paying for and providing overtime labor; provided however, that if the Services Provider believes that a delay in the Project Schedule is due solely to the negligence or intentional misconduct of the City, the Services Provider may, by written notice, request that the City grant additional time equal to the amount of time lost due to the City's conduct, and the City may grant such additional time in its reasonable discretion. In the event of a Force Majeure Event (as defined below), the Services Provider may also, by written notice, request additional time equal to the number of days the Force Majeure Event was occurring.

B. No additional compensation shall be paid to Services Provider for additional costs or delay due to the negligence or intentional acts of Services Provider or any of its employees, agents, contractors or subcontractors, or any of the officers, employees, or agents of any of them.

1.7. The Services Provider shall perform all of its obligations under this Agreement in compliance with the budget set forth in Exhibit B attached hereto and incorporated herein, as it may be amended from time to time by mutual written agreement of the City and the Services Provider (the "BUDGET"). [Attach the task by task cost breakdown (whether in spreadsheet format or otherwise) as Exhibit B] If the Services Provider determines that the Project is over Budget in its entirety or in any line item of the Budget, the Services Provider shall promptly notify the City of such fact and, at its own expense, shall promptly take all actions necessary to come back into compliance with the Budget, including without limitation, paying the amount of such overage from the Services Provider's own funds; provided however, that if the Services Provider believes that an overage in all or a portion of the Budget is due solely to the negligence or intentional misconduct of the City, the Services Provider may, by written notice, request that the City grant additional funds equal to the amount of the overage created due to the City's conduct, and the City may grant such additional funds in its reasonable discretion. In the event of a Force Majeure Event, the Services Provider may also, by written notice, request additional funds equal to the amount of funds directly attributable to the Force Majeure Event.

1.8. The Services Provider shall pay, perform and deliver all obligations of Services Provider set forth in this Agreement, including without limitation those obligations set forth in Exhibit C attached hereto and incorporated herein, as it may be amended by mutual agreement of the City and the Services Provider from time to time, and all related additional or incidental tasks necessary to effectuate the intent of this Agreement (the "SCOPE OF WORK"). [Attach a description of all of the obligations of the Services Provider as Exhibit C. You may use, as a starting point, the PROPOSAL specifications, the Request for Proposals requirements, or the scope of work prepared by the Services Provider in his response to the RFP. Make sure that the Scope of Work includes each obligation of Services Provider described in #6--CTW.] The Services Provider shall not perform any task that is not required by this Agreement or necessarily implied by it, without obtaining the prior written approval of the City. If the Services Provider chooses to perform any task without obtaining the City's prior written approval, the Services Provider does so at its own risk and expense.

1.9. If the City desires the Services Provider to perform additional tasks not set forth in the Scope of Work, the City will notify the Services Provider of that fact in writing ("SUPPLEMENTAL SERVICES"). If such changes cause a significant increase or decrease in the Services Provider's cost or time required for performance, the parties shall formally amend this Agreement. Any claim of Services Provider for adjustment under this clause must be asserted in writing within thirty (30) calendar days from the date of receipt by Services Provider of City's notice of changes, or such claim shall be deemed waived by Services Provider and Services Provider will be deemed to have agreed to the changes without modification of the compensation or time of performance hereunder. All such Supplemental Services shall be performed at the rates set forth in Exhibit D attached hereto and incorporated herein (the "SUPPLEMENTAL SERVICES RATES") [Attach a copy of the Services Provider's current hourly rates for time and materials and attach as Exhibit D].

1.10. The Services Provider shall at its own expense comply at all times with all municipal, county, state and federal laws, regulations, rules, codes, ordinances and other applicable legal requirements, including without limitation, the Americans with Disabilities Act, as such may be amended or modified from time to time (collectively, the “**LEGAL REQUIREMENTS**”) in performing the Scope of Work for the Project.

A. In connection with the performance of work under this Agreement, the Services Provider agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation, age, or any other protected class, 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.

1.11. The Services Provider shall at its own expense obtain and maintain in full force and effect at all times all necessary permits, licenses and other governmental approvals required by applicable Legal Requirements to be obtained and maintained by the Services Provider with respect to the Project, the Scope of Work and/or the business and operations of the Services Provider (collectively, the “**GOVERNMENTAL APPROVALS**”). In the event Services Provider is required to obtain any Governmental Approvals from the City in connection with the matters contemplated by this Agreement, the Services Provider acknowledges that the City will review Services Provider’s applications for such Governmental Approvals in the ordinary course, and this Agreement shall not be deemed to be an approval of any such applications.

1.12. The Services Provider shall not commence performing any of its obligations under this Agreement until such time as it has received a Notice to Proceed from the City.

1.13 The Services Provider shall immediately notify the City if Services Provider becomes aware of any notice, citation, complaint or other matter issued by any governmental authority with respect to Services Provider, the Project or the Scope of Work, and shall not take any action to respond to or resolve same without receiving prior written approval from the City.

1.14 The Services Provider shall at its sole cost and expense obtain and maintain at all times the insurance required by Section 8, and shall promptly notify City if any such insurance is canceled or altered.

1.15 The Services Provider shall be responsible for maintaining satisfactory standards of employee competency, conduct and integrity, and shall be responsible for taking such disciplinary action with respect to its employees as may be necessary to maintain such standards. In the event that Services Provider fails to remove any employee from the Scope of Work whom the City deems incompetent, careless or insubordinate, or whose continued employment on the Scope of Work is deemed by the City to be contrary to the interests of the City, the City reserves the right to require such removal as a condition for the continuation of this Agreement.

1.16 The Services Provider shall treat all information relating to the Project and all information supplied to the Services Provider by the City as confidential and proprietary information of the City and shall not permit its release by Services Provider's employees, agents or subcontractors to other parties or make any public announcement or release thereof without the City's prior written authorization. Services Provider shall also require its contractors, consultants and subcontractors, and their agents and employees to comply with this requirement.

1.17 Each employee, agent or subcontractor of Services Provider having access to personnel, data, information, personal property or real property of the City, must first submit to a background check performed by the City's Police Department, and must satisfactorily pass such background check, as determined by the City in its sole discretion, before performing any portion of the Project or the Scope of Work on behalf of Services Provider.

## **SECTION TWO RESPONSIBILITY OF CITY**

In addition to any other obligations of City under this Agreement, the City has the following responsibilities:

2.1. The City will cooperate with the Services Provider in the performance of this Agreement and will be available for consultation with the Services Provider during normal City business hours.

2.2. In the event the City is required to review or respond to any submissions from the Services Provider, the City will conduct its review and/or provide its response within twenty-one days following receipt by the City of the Services Provider's submissions. The City's review of such submissions does not relieve the Services Provider for responsibility for the accuracy and completeness of such submissions and the conformance of such submissions to the requirements of this Agreement, including without limitation, the Scope of Work.

2.3. The City shall assemble selected data and information related to the Project and provide same to the Services Provider within \_\_\_\_\_ days after the date of this Agreement. The data and information to be provided by the CITY is the following:

A. **[INSERT all data and information to be provided by the City]**

B. The Services Provider shall be responsible for updating this data and information during the Project, and shall be responsible for acquiring supplemental data and information that the Services Provider deems necessary to complete the Scope of Work.

2.4. **[INSERT task by task all obligations of the City listed on #9--CTW]**

### SECTION THREE PAYMENT TERMS

3.1 Subject to any provisions of this Agreement concerning payment, the City shall pay the Services Provider for the entirety of the Scope of Work the amount of Dollars (\$ \_\_\_\_\_) (the "CONTRACT PRICE"), which amount shall be paid pursuant to this Section 3 **[choose as applicable from CTW #7--[in one lump sum on (insert date)] OR [in installments according to the following schedule--insert installment schedule from #7 of the CTW]]**

3.2 Payment to the Services Provider shall be made within thirty (30) calendar days after the City receives each invoice provided by the Services Provider to the City, provided that such invoice is complete, correct, and undisputed by the City, and that it contains the following information: **[insert information you want to see on the invoice]**

3.3 The CITY shall have fourteen (14) calendar days after receipt of an invoice to dispute any or all of the charges on the invoice. Disputed amounts shall be resolved through the Dispute Resolution mechanism in Section 11.

3.4 The Services Provider shall submit invoices only once per month, covering work performed by Services Provider or its agents or employees in the prior month.

3.5 Services Provider shall promptly pay any amounts due to any employees, agents, subcontractors or anyone else performing any portion of the work for Services Provider, and in the event any of the foregoing liens any City property, Services Provider shall promptly and at its expense cause such liens to be removed.

### SECTION FOUR ACCESS TO RECORDS

4.1 The Services Provider shall maintain books, records, documents and other evidence directly pertinent to its performance under this Agreement in accordance with generally accepted accounting principles and practices. The Services Provider shall also maintain the financial and other information and data used by the Services Provider in the preparation or support of all invoices of Services Provider, and a copy of such invoices. The City, or any of its duly authorized representatives, shall have access to such books, records, documents and other evidence for the purpose of inspection, audit and copying. The Services Provider will provide proper facilities for such access and inspection.

4.2 Audits conducted pursuant to this Section shall be in accordance with generally accepted auditing standards and established procedures and guidelines for the reviewing or audit agencies.

4.3 The Services Provider agrees to the disclosure of all information and reports resulting from access to records pursuant to Section 4.1 above, to any Project funding agency provided that the Services Provider is afforded the opportunity for an audit exit conference and an opportunity to comment and submit any supporting documentation on the pertinent portions of the draft audit report.

4.4 Records pursuant to Section 4.1 above shall be maintained and made available during performance under this Agreement and until three (3) years from the date of final payment for the Project. In addition, those records which relate to any dispute resolution, litigation or appeal, or the settlement of claims arising out of such performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until three (3) years after the date of resolution of such dispute, litigation, appeal, claim or exception. This Section 4.4 shall survive the completion of the Project and the termination or expiration of this Agreement.

4.5 The Services Provider agrees to include language substantially similar to the language of Sections 4.1 through 4.4 in all Services Provider subcontracts related to performance of services specified in this Agreement.

## **SECTION FIVE PUBLIC RECORDS**

5.1 Pursuant to NRS § 239.010 and other applicable Legal Requirements, each and every document provided to the City is a "public record" open to inspection and copying by any person, except for those documents otherwise declared by law to be confidential. The City shall not in any way be liable to Services Provider for the disclosure of any public record. In the event City is required to defend an action with regard to a public records request for documents submitted by Services Provider, Services Provider agrees to indemnify, hold harmless, and defend City from all damages, costs, and expenses, including court costs and reasonable attorney's fees related to such public records request. This Section 5 shall survive the expiration or earlier termination of this Agreement.

## **SECTION SIX FISCAL FUNDING OUT**

6.1 City reasonably believes that sufficient funds can be obtained to make all payments during the term of this Agreement. Pursuant to NRS Chapter 354, if City does not allocate funds to continue the function performed by Services Provider obtained under this Agreement, said Agreement will be terminated when appropriated funds expire.

## SECTION SEVEN REPRESENTATIONS AND WARRANTIES

7.1 Services Provider hereby represents and warrants for the benefit of City, in addition to any other representations and warranties made in this Agreement, with the knowledge and expectation of City's reliance thereon, as follows:

A. Services Provider is a duly formed and validly existing ***[corporation][limited liability company][partnership][insert applicable type of other entity]*** and is in good standing pursuant to the laws of the State of ***\_\_[insert name of state where entity was formed] [INSERT LANGUAGE FOLLOWING COLON IF THE COMPANY WAS FORMED OUTSIDE OF NEVADA;]*** ***and is duly qualified to do business in, and is in good standing in, Nevada***, and has the full power, authority and legal right to execute, deliver and perform under this Agreement.

B. The execution and delivery of this Agreement, the consummation of the transactions provided for herein, and the fulfillment of the terms hereof on the part of Services Provider will not result in a breach of any instrument to which Services Provider is a party or by which Services Provider is bound or of any judgment, decree or order of any court or governmental body or any Legal Requirement applicable to Services Provider.

C. The execution, delivery and performance of this Agreement and the taking of all other lawful actions necessary to consummate the Project contemplated hereunder, by the persons executing, delivering and performing the same on behalf of Services Provider, have been duly and validly authorized (and by their execution hereof or of any document delivered in connection with the Project contemplated hereunder such persons individually represent and warrant that they are so authorized), and this Agreement and the other Agreements and instruments contemplated hereby, constitute legal, valid and binding obligations of Services Provider, enforceable in accordance with their respective terms.

D. No consent, approval or authorization of any governmental authority or private party is required in connection with the execution and performance of this Agreement by Services Provider.

E. Services Provider has obtained any and all Governmental Approvals that are required to be obtained by Services Provider by all Legal Requirements applicable to Services Provider and to the performance of the Scope of Work by Services Provider.

F. Services Provider is duly licensed and authorized to do business in the City, and Services Provider's business license is in full force and effect.

G. Services Provider is a sophisticated and qualified provider of the Services required by the Scope of Work, and its personnel possess the level of professional expertise and experience that is necessary to properly perform the Scope of Work within the Project Schedule and pursuant to the Budget, with an appropriate level of diligence, skill and care, and pursuant to the

terms, specifications and conditions of this Agreement. Services Provider has the necessary personnel, equipment, tools, supplies, materials, and facilities to properly perform the Scope of Work within the Project Schedule and pursuant to the Budget, with an appropriate level of diligence, skill and care, and pursuant to the terms, specifications and conditions of this Agreement.

H. Services Provider is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to complete the Project within the Project Schedule and pursuant to the Budget, and to perform all of its obligations under this Agreement.

I. Services Provider shall require that each subcontractor performing any portion of the Project or the Scope of Work:

1. Is duly formed, in good standing, and authorized to do business in the State of Nevada;
  2. Has obtained any and all Governmental Approvals that are required to be obtained by all Legal Requirements applicable to the subcontractor and to the portion of the Project performed by subcontractor;
- a) Shall be required to comply with all obligations of Services Provider to City under this Agreement;
- b) Shall submit the names of all its employees, agents, or other persons performing any portion of the Scope of Work or the Project on behalf of subcontractor to the City for a background check, and shall staff its portion of the Project with those who have passed the background check to the City's satisfaction
5. Is duly licensed and authorized to do business in the City, and such business license is in full force and effect; and
  6. Shall comply with all applicable Legal Requirements that are applicable to subcontractor and any portion of the Project work performed by subcontractor.

J. No person or entity has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee. For breach of this warranty, the City shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Contract Price, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

- 7.2 The representations and warranties made by Services Provider herein shall survive the completion of the Project and the termination or expiration of the Agreement.

## SECTION EIGHT INSURANCE

8.1 Services Provider shall procure and maintain, and shall cause each subcontractor to procure and maintain at all times during the performance of the Project and for one year thereafter, at its own expense, the following insurances:

A. Workman's Compensation Insurance as required by applicable Legal Requirements, covering all persons employed in connection with the matters contemplated hereunder and with respect to whom death or injury claims could be asserted against City or the Services Provider.

B. Comprehensive General Liability (bodily injury and property damage) insurance in a policy limit of not less than [\$1,000,000—ask Dwight] for combined single limit per occurrence. Such General Liability insurance policy shall be endorsed as to include the City as an additional insured.

C. [If applicable] Professional Liability insurance, for the protection from claims arising out of performance of professional services caused by a negligent act, error, or omission for which the insured is legally liable; such Professional Liability insurance will provide for coverage in an amount of not less than [\$1,000,000—see Dwight] for each occurrence and [\$2,000,000—see Dwight] in the aggregate.

D. Automobile Liability insurance with a combined single limit of [\$1,000,000—see Dwight] per accident.

E. Employer's Liability insurance with limits of [\$1,000,000—see Dwight] per occurrence.

F. [Insert any other applicable insurance coverages, as appropriate. See #12-CTW and consult with Dwight and the City Attorney's office]

8.2 Certificates of Insurance indicating that such insurance is in effect shall be delivered to the City before work is begun under this Agreement. If the Services Provider is underwritten on a claims-made basis, the retroactive date shall be prior to or coincident with the date of this Agreement, and the Certificate of Insurance shall state that coverage is claims-made and the retroactive date. Services Provider shall provide the City annually with a Certificate of Insurance for each type of insurance required hereunder. It is further agreed that the Services Provider and/or Insurance Carrier shall provide the City with 30-day advance written notice of policy cancellation of any insurance policy required to be maintained by Services Provider.

8.3 All insurance policies required hereunder, and all renewals thereof, shall be provided by a company or companies authorized to do business in Nevada and having a A.M. Best rating of A:+ or higher, and shall expressly:

- A. Provide that such policies shall not be cancelled or altered without thirty (30) days prior written notice to City; and
- B. Waive subrogation against the City, its officers, agents, servants and employees; and
- C. Provide that they are primary and noncontributing with any insurance which City may carry; and
- D. Include or be endorsed to cover Services Provider's contractual liability to the City; and
- E. Be signed by a person authorized by that insurer and licensed by the State of Nevada; and
- F. Disclose all deductibles and self-insured retentions in the Certificate of Insurance. No deductible or self-insured retention may exceed \$250,000 without the written approval of the City.

## **SECTION NINE EVENT OF DEFAULT**

9.1 As used herein, "City Event of Default" means any willful or intentional misconduct, fraud, or misrepresentation by City, or any breach of this Agreement, which City fails to remedy within five (5) days after written notice thereof to City, in the case of an event which can be cured by the payment of a sum of money, or within fifteen (15) days after written notice thereof to City, in the case of any other event; provided however, that if such non-monetary event is susceptible of cure but cannot reasonably be cured within such 15-day period, and City shall have commenced to cure such event within such 15-day period and thereafter diligently and expeditiously proceeds to cure the same, such 15-day period shall be extended for an additional period of time as is reasonably necessary for City in the exercise of due diligence to cure such event, which additional period of time shall in no event exceed six months.

9.2 As used herein, "Services Provider Event of Default" means any willful or intentional misconduct, fraud, or misrepresentation by Services Provider, or any breach of this Agreement, which Services Provider fails to remedy within five (5) days after written notice thereof to Services Provider, in the case of an event which can be cured by the payment of a sum of money, or within fifteen (15) days after written notice thereof to Services Provider, in the case of any other event; provided however, that if such non-monetary event is susceptible of cure but cannot reasonably be cured within such 15-day period, and Services Provider shall have commenced to cure such event within such 15-day period and thereafter diligently and expeditiously proceeds to cure the

same, such 15-day period shall be extended for an additional period of time as is reasonably necessary for Services Provider in the exercise of due diligence to cure such event, which additional period of time shall in no event exceed two months.

9.3 A breach of this Agreement includes without limitation the following:

A. If Services Provider is unable to obtain or maintain any Governmental Authorizations necessary to perform its obligations under this Agreement;

B. If Services Provider shall be or become insolvent, voluntarily or involuntarily, or if Services Provider shall compound Services Provider's debts, or if any sheriff, marshal, constable, or any other officer takes possession of the Premises by virtue of any execution or attachment, or if any receiver, liquidator or trustee is appointed for Services Provider's property, or in the event Services Provider shall be adjudged a bankrupt, or if Services Provider makes an assignment for the benefit of creditors, or if Services Provider files a petition under any chapter of the Bankruptcy Act;

C. If Services Provider assigns or attempts to assign this Agreement without the City's prior written consent;

D. If Services Provider fails to provide the City with proof of insurance coverage as required by this Agreement;

E. If any financial statement, resume, statement of qualifications or representations and warranties of Services Provider, given to City by Services Provider, was materially false when given.

## **SECTION TEN TERMINATION**

10.1 The City may terminate this Agreement at any time without cause upon notice to the Services Provider, and the City shall have no liability to Services Provider for such termination except that the City shall pay Services Provider for the reasonable value of Services provided by Services Provider to City up through and including the date of termination, provided that the Services Provider, within thirty (30) days following the date of the City's termination notice, submits an invoice for such Services in a form reasonably acceptable to the City and such invoice is supplemented by such underlying source documentation as is reasonably requested by the City.

10.2 The City may, upon written notice to Services Provider, terminate this Agreement immediately "for cause" upon a Services Provider Event of Default.

10.3 The Services Provider may, upon written notice to the City, terminate this Agreement immediately "for cause" upon a City Event of Default.

10.4 Either party may terminate this Agreement pursuant to any term of this Agreement which gives such party a right of termination.

## **SECTION ELEVEN DISPUTE RESOLUTION**

11.1 All disputes between City and Services Provider shall be resolved in the following manner:

A. The City's representative and the Services Provider's Responsible Person will endeavor to conduct good faith negotiations in an effort to resolve any and all disputes in a timely manner.

B. If any disputes between the parties remain unresolved after fifteen (15) calendar days, the City's representative and the Services Provider's Responsible Person shall, within fourteen (14) calendar days, prepare a brief, concise written report summarizing the basis for the dispute, the negotiations accomplished and results thereof, and the current status of all relevant unresolved issues.

C. Copies of each written summary shall be exchanged between the City's representative and the Services Provider's Responsible Person, and provided to the City's Assistant City Manager, or his or her designee. Within fifteen (15) calendar days thereafter, the City's Assistant City Manager, or his or her designee, and the Services Provider's Responsible Person will meet to resolve the dispute. A written record of these negotiations will be made. The record will summarize all issues of dispute, the resolutions to resolved issues, and unresolved issues, if any.

D. If there are still unresolved issues, the written record will be reviewed by the City's City Manager, or his or her designee, who will render a determination regarding such dispute. Such determination will be the final administrative determination.

E. If the Services Provider disagrees with the determination of the City's City Manager, or his or her designee, the Services Provider may only initiate an action in the Eighth Judicial District Court in and for Clark County to resolve such dispute. The City retains the right to all remedies available at law or in equity. The Parties agree that no dispute under this Agreement shall be submitted to or resolved through arbitration or mediation.

## **SECTION TWELVE INDEMNIFICATION**

12.1 Notwithstanding any of the insurance requirements herein above set forth or limits of liability set forth therein, Services Provider shall defend, protect, indemnify and hold harmless the City, and its officers, agents and employees, from any liabilities, claims, damages, losses, expenses, proceedings, suits, actions, decrees, judgments, reasonable attorney fees, and court costs which the City suffers, and/or its officers, agents or employees suffer, as a result of, or arising out of,

the negligent or intentional acts or omissions of the Services Provider, its subcontractors, agents, and employees, or anyone employed by any of them, in fulfillment or performance of the terms, conditions or covenants of this Agreement. This Section 12 shall survive the completion of the Project and the termination or expiration of this Agreement until such time as the applicable statutes of limitation expire.

### **SECTION THIRTEEN NOTICES**

13.1 All notices, demands, requests, consents, approvals, and other instruments required or permitted to be given pursuant to this Agreement shall be in writing and signed by the notifying party, or officer, agent or attorney of the notifying party, and shall be deemed to have been effective upon delivery in writing if served personally, including but not limited to delivery by personal delivery, by overnight courier service, by facsimile or by overnight express mail, or upon posting if sent by registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

To City: City of North Las Vegas  
Attention: DWIGHT RAWLINSON  
2200 Civic Center Drive  
North Las Vegas, NV 89030  
Fax: 702-399-8099

To Services Provider:  
Attention:

Fax:

13.2 The address to which any notice, demand or other writing may be delivered to any party as above provided may be changed by written notice given by such party as above provided.

### **SECTION FOURTEEN MISCELLANEOUS**

14.1 Nevada and City Law. The laws of the State of Nevada and the North Las Vegas Municipal Code shall govern the validity, construction, performance and effect of this Agreement, without regard to conflicts of law.

14.2 Successors. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

14.3 Assignment. Any attempt to assign this Agreement by the Services Provider without the prior written consent of the City shall be void.

14.4 Non-Waiver. The failure to enforce or the delay in enforcement of any provision of this Agreement by a party hereto or the failure of a party to exercise any right hereunder shall in no way be construed to be a waiver of such provision or right (or of any other provision or right) unless such party expressly waives such provision or right in writing.

14.5 Partial Invalidity. If any term, provision, covenant or condition of this Agreement, or any application thereof, should be held by a court of competent jurisdiction to be invalid, void or unenforceable, all provisions, covenants, and conditions of this Agreement, and all applications thereof, not held invalid, void or unenforceable, shall continue in full force and effect.

14.6 Attorneys' Fees. In the event any action is commenced by either party against the other in connection herewith (including any action to lift a stay or other bankruptcy proceeding), the prevailing party shall be entitled to its costs and expenses, including reasonable attorneys' fees, as determined by the court. This Section 14.6 shall survive the completion of the Project until the applicable statutes of limitation expire.

14.7 Entire Agreement. This Agreement constitutes the entire Agreement between the parties pertaining to the subject matter contained herein and supersedes all prior representations, agreements and understandings of the parties. No addition to or modification of this Agreement shall be binding unless executed in writing by the parties hereto.

14.8 Time of Essence. Time is of the essence in the performance of this Agreement and all terms, provisions, covenants and conditions hereof.

14.9 Ownership of documents. All plans, drawings, specifications, reports, photographs, studies, permits, estimates, digital mapping, CAD files, mylar, **[List all other documents prepared in your transaction]** or other like documents given, prepared or assembled by the Services Provider or any subcontractor that are related to the performance of this Agreement are deemed to be a "Work made for Hire" and are the property of the City, except to the extent such is not allowed by applicable Legal Requirements.

14.10 No Brokers. City and Services Provider each represent and warrant that neither of them has dealt with a broker or otherwise agreed to pay a broker's or agent's commission, finder's fee or other like compensation to anyone in connection with this Agreement, and Services Provider and City each agrees to indemnify, defend and hold the other party harmless from and against such claims or costs, including reasonable attorneys' fees, if the indemnifying party has wrongly made this representation and warranty. This Section 14.10 shall survive the expiration or earlier termination of this Agreement.

14.11 Headings. The paragraph headings of this Agreement have been inserted only for convenience, and shall not be deemed in any manner to modify or limit any of the provisions of this Agreement, or be used in any manner in the interpretation of this Agreement.

14.12 Interpretation. Whenever the context so requires, all words used in the singular shall be construed to have been used in the plural (and vice versa), each gender shall be construed to include any other genders, and the word "person" shall be construed to include a natural person or any other entity. The words "include" or "including" shall be deemed to incorporate "without limitation".

14.13 No Joint Venture. This Agreement is not intended to create, and shall not be deemed to create, any relationship between the parties hereto other than that of independent entities contracting with each other solely for the purpose of effecting the provisions of this Agreement. Neither of the parties hereto shall be construed to be the agent, employer, representative or joint venturer of the other.

14.14 Further Assurances. Buyer and Seller shall each execute and deliver all such documents and perform such acts as are reasonably requested by the other party to effectuate the transactions contemplated by this Agreement, provided that such further assurances are provided by each party at no additional cost to such party and are otherwise consistent with the terms and intent of this Agreement.

14.15 Construction. This Agreement shall not be construed more strictly against one party than against the other, merely by virtue of the fact that it may have been prepared primarily by counsel for one of the parties, it being recognized that both parties have contributed substantially and materially to the preparation of this Agreement.

14.16 Effect of Agreement Termination. In the event this Agreement is terminated, all rights and obligations of the parties hereunder shall cease, other than indemnity obligations and matters that by their terms survive the termination hereof.

14.17 Force Majeure. In the event any party is unable to perform its obligations under this Agreement because of a Force Majeure Event, then such party shall provide the other party with notice of its inability to perform its obligations hereunder, together with documentation supporting the existence of such Force Majeure Event, and shall promptly begin to perform, or resume performance of, its obligations under this Agreement upon the cessation of the Force Majeure Event. As used herein, a "Force Majeure Event" means labor strikes, extraordinary civil commotion, war, warlike operation, fire or other casualty, inability to obtain fuel or energy, unusual or uncustomary weather conditions, or other acts of God, or other causes beyond a party's reasonable control (financial inability excepted).

**IN WITNESS WHEREOF**, the City and the Services Provider have caused this Agreement to be executed as of the day and year first above written.

City of North Las Vegas

**[Services Provider Name]**

By: \_\_\_\_\_  
Shari L. Buck, Mayor

By: \_\_\_\_\_  
**[Type Name and Title of Person  
Executing Document]**

Attest:

By: \_\_\_\_\_  
Karen Storms, City Clerk, CMC

Approved as to Form:

\_\_\_\_\_  
Nicholas Vaskov, Acting City Attorney

By: \_\_\_\_\_  
Deputy City Attorney

## **Exhibit A**

### Project Schedule

**Exhibit B**

Budget

## **Exhibit C**

### Scope of Work

**Exhibit D**

Supplemental Services Rates