



REQUEST FOR PROPOSAL #007-037

FOR

FINANCIAL AUDIT SERVICES

February 7, 2011

**City of North Las Vegas
Finance Department
2200 Civic Center Drive
North Las Vegas, NV 89030
(702) 633-1460, Extension 3629**

REQUEST FOR PROPOSAL (RFP)

TO PROVIDE FINANCIAL AUDIT SERVICES

The City of North Las Vegas (the "City") is requesting proposals from qualified firms of certified public accountants to provide independent financial audit services to the City for the years ending June 30, 2011 and 2012, with an option to extend the services for the years ending 2013, 2014 and 2015.

The City of North Las Vegas

The City was incorporated in 1946 and currently occupies 100.44 square miles and is approximately 42% built-out, with a majority of land remaining undeveloped. The City operates under a Council-Manager form of government, with elective offices consisting of the Mayor, four City Council members and two municipal judges. The Mayor and all Council members are elected on an at-large, non partisan basis to serve a four-year term. Effective January 1, 2000, four North Las Vegas council wards were created. With the exception of the Mayor, each council member represents the ward in which they reside. Terms of office are staggered so that City-wide elections are held every two years for two or three of the five offices.

The City provides a full range of services, including a municipal court, public safety (police and fire), water and wastewater, highways and streets, planning and zoning, parks and recreational facilities, libraries, community development and general administrative services. In addition to general governmental activities, the City Council exercises oversight responsibility for the North Las Vegas Library District and the North Las Vegas Redevelopment Agency; consequently, these activities are reported as blended component units of the City for financial reporting purposes. The City's water and wastewater activities, as well as golf courses, are reported as enterprise funds.

Audit Engagement

The City is seeking the services of a qualified Certified Public Accounting Firm capable of performing a normal annual audit and rendering an opinion on its financial statements and condition. This engagement request is the result of a normal rotation of CPA firms.

The term of the audit engagement shall be for the years ending June 30, 2011 and 2012. The City will also have an additional option to renew the agreement for an additional three (3) year period at the discretion of the City. The City may exercise this option at any time prior to the commencement of the applicable option period.

Licensure/Independence Standards

Only licensed certified public accountants, a partnership or professional corporation that's registered pursuant to chapter 628 of Nevada Revised Statutes (NRS) with sufficient governmental accounting and auditing experience will be considered for this RFP. The proposer(s) must also meet the independence standards as set forth in

Standards for Audit of Governmental Organizations, Programs, Activities and Functions and the proposer(s) must have no record of substandard work.

Audit Standards

The City's financial statements are prepared to conform fully to Generally Accepted Accounting Principles (GAAP) and to be in full compliance with the pronouncements of the Governmental Accounting Standards Board (GASB) and/or the Financial Accounting Standards Board (FASB); however, the City has elected not to follow FASB pronouncements issued after November 30, 1989. The Auditor's opinion will be directed toward the fairness of presentation of financial statements in accordance with GAAP. The Auditor will also be required to comply with all applicable Federal and state laws.

SCOPE OF SERVICES

The City's adopted operating budget for the fiscal year ended June 30, 2011, is \$429,107,440 and the adopted revenue projections for fiscal year 2010-11 are \$436,780,090. The City has 24 bond issues outstanding totaling more than \$510 million. The number of full-time equivalent employees is 1,640. The City maintains 109 active Funds that for financial reporting purposes, roll up into 1 General Fund, 10 Special Revenue Funds, 1 Debt Service Fund, 7 Capital Projects Funds, 2 Internal Service Funds and 3 Enterprise Funds; the also maintains 16 Fiduciary Funds. The City's Comprehensive Annual Financial Report (CAFR) for the period ended June 30, 2010, can be found on the City's website at www.cityofnorthlasvegas.com under the Finance Department.

The City's anticipated timeframe for services to be provided under this agreement are as follows: (1) Trial balance available, with the exception of the City's fixed assets – October 3rd, (2) Fixed assets completed – October 24th, (3) Preliminary comprehensive annual financial report (CAFR) document ready for review – October 31st, (3) Annual audit must be concluded pursuant to NRS 354.624 – November 30th.

The services to be provided under this contract are professional services customarily provided by an Independent Auditor to a municipality of the size and scope commensurate to that of the City and shall include, but not be limited to, the following:

1. Annual Audit of the City's financial statements of the governmental activities, the business-type activities, each major fund and the aggregate remaining fund information, which collectively comprise the City's basic financial statements. Such audit shall be in conformity with GAAP, the standards applicable to financial audits contained in the most recent version of the *Government Auditing Standards*, issued by the Comptroller General of the United States and all applicable Federal and state laws.

Further, the audit shall be in accordance with Section 4 of Nevada Revised Statutes (NRS) 354.624 and NRS 354.6241.

The audit is to cover certain related supplemental information that will accompany the basic financial statements, but the auditor is not required to audit the "Management's Discussion and Analysis," other GASB-required supplemental information, the introductory section to the city's comprehensive annual financial report, or any statistical tables such as are required to earn the *Certificate of Achievement for Excellence in Financial Reporting* awarded by the Government Finance Officers Association (GFOA), although the auditor shall be responsible for applying certain limited procedures thereto.

The following reports are required (subject to changes by regulatory agencies, GASB, FASB, applicable Federal and state laws, etc.):

- a) Preparation of an Independent Auditor's Report as an expression of an audit opinion in conjunction with full-scope audit of annual financial statements, stating the scope of examination and that the audit was conducted in accordance with generally accepted government auditing standards as well as all applicable Federal and state laws and provisions.
 - b) The Auditor shall issue an Independent Auditor's Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*. The Auditor shall communicate all reportable conditions found during the audit in the report on internal controls. Further, the Auditor shall identify any material weaknesses in his/her Audit. The Auditor shall report other weaknesses in internal controls not meeting the definition of a reportable condition in a separate letter to City's management.
 - c) Accompanying the financial statements, the Auditor will submit to management a Letter of Comments and Recommendations on internal control over financial reporting based on the Auditor's assessment of the internal control structure and risk: (i) indicating deficiencies or opportunities for accounting and reporting improvements; (ii) identifying any reportable condition or material weakness; and (iii) recommending the areas where operations and/or processes can be improved or control enhanced.
 - d) The Auditor shall issue an Independent Auditor's Report on Compliance with Requirements Applicable to Each Major Program and on Internal Control Over Compliance in Accordance with OMB Circular A-133 and Schedule of Expenditures of Federal Awards.
 - e) Auditor's Schedule of Findings and Questioned Costs.
2. The audit of the financial records and related information will be made in accordance with generally accepted auditing standards and will be for the purpose of expressing an opinion as to whether the financial statements are fairly stated in all material respects and are prepared in accordance with GAAP. The

test audit will include the recorded transactions in conformity with generally accepted auditing standards, which may not in every case discover defalcations, if they exist. However, the Auditor will inform management promptly of any findings that appear unusual or abnormal. Pursuant to Section 7 of NRS 354.624, the selected firm shall be required to make an immediate, written report to the Director of Finance of all fraud and illegal acts or indications of illegal acts of which they become aware. If the Audit opinion is other than unqualified, the Auditor will fully discuss the reasons with the City in advance of issuing the opinion.

3. As required by current bond indentures, Auditor will audit the City's financial statements. Additionally, the Auditor will review current bond documents for purposes of assuring compliance with provisions of the bond indentures, the proper flow of funds and Federal and state laws.
4. A pre-audit conference is required regarding the timing of the audit, the personnel, the supervision, the documents required and respective responsibilities.
5. A post-audit conference will be conducted by the Auditor in charge. At the exit conference, findings and recommendations regarding compliance and internal control shall be discussed. The City's management shall have the opportunity to respond, orally and in writing to the findings and the Auditor will prepare the audit documents in accordance with the City's comments.
6. As part of the overall audit agreement, the City expects to receive from the audit firm a variety of minimal technical assistance throughout the fiscal year, which is considered within the areas of Auditor's expertise and responsibilities. Such assistance would include, but not limited to, consultation regarding accounting, reporting, technical and internal control issues.
7. The audit working papers and reports must be retained, at the Auditor's expense for the longer of the following time periods: (i) five (5) years after the completion of the audit engagement; (ii) the time required by applicable Federal and state laws; (iii) the time recommended by the AICPA; (iv) the time requested by the City in writing; or (v) in the event of litigation or claims which relate to such audit working papers and reports, then until such litigation or claims are completely disposed of and all time periods for appeal are expired. The working papers shall be made available to the City should the need arise during that time.

In addition, the firm shall respond to the reasonable inquires of successor Auditors and allow successor Auditors to review working papers relating to matters of continuing accounting significance.

8. Responsibilities of City Management. At the conclusion of the audit, the Auditor will request that City management make certain written representations regarding the City's financial statements and matters related thereto. Specifically, City management will represent that it is responsible for: (1) preparation of the City's

financial statements, (2) establishing and maintaining effective internal control over financial reporting, and compliance by means that include the monitoring of ongoing activities, the safeguarding of assets and informing the Auditor of all significant deficiencies in the design or operation of such controls of which City management has knowledge, (3) properly recording transactions in the records, (4) identifying laws and regulations applicable to City activities, ensuring that the City complies with the laws and regulations applicable to its activities and informing the Auditor about all known material violations of such laws and/or regulations, (5) designing and implementing programs and controls to prevent and detect fraud and informing the Auditor about all known or suspected fraud affecting the City involving management, employees who have significant roles in internal control and others where the fraud could have a material effect on the financial statements, (6) informing the Auditor of City management's knowledge of an allegations of fraud or suspected fraud affecting the City received in communications from employees, regulations, or others, (7) making all financial records and related information available to the Auditor, and (8) adjusting the financial statements to correct material misstatements. In addition, at the conclusion of the audit, the Auditor will also require misstatements aggregated by the Auditor during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the City's financial statements taken as a whole.

SUBMISSION REQUIREMENTS

The Auditor shall submit in separate sealed envelopes, three (3) copies each of their Technical and Fee Proposal to include the following:

Technical Proposal (separate envelope)

1. Letter of Transmittal (not to exceed one (1) single-side letter-sized (8.5" x 11") page.

A signed letter of transmittal briefly stating the following:

- Identification of Proposer that will have the authorization to commit to the contractual terms and conditions. Identification shall include legal company name, corporate address, telephone, fax number and e-mail address. Include the name, title, address, telephone number and e-mail address of the contact person during the proposal evaluation process.
- Proposer's understanding of the work to be done, the commitment to perform the work within the time period, and a statement why the firm believes itself to be best qualified to perform the engagement.
- The proposal is a firm and irrevocable offer and shall remain valid for a period of not less than 90 days from the date of submittal.
- The person signing the letter will be authorized to bind the Proposer.
- By signing the letter of transmittal, Proposer is attesting that all information submitted with the proposal is true and correct.

2. Technical Proposal (not to exceed ten (10) single-sided, letter-sized pages) to include:

- a) Understanding the scope of services and the City's needs
- b) Approach to the Assignment

The Auditor should fully and in detail describe, by task, the methodology that it intends to utilize to accomplish the scope of services described in the RFP. In this approach, the Auditor should demonstrate the degree to which it will show a commitment to work cooperatively with City staff at all levels.

- Proposed segmentation of the engagement by outlining sequentially the activities that would be undertaken in completing the tasks and specifying the level of staff that would perform them.
- Sample size and the extent to which statistical sampling is to be used in the engagement.
- Type and extent of analytical procedures to be used in the engagement.
- Approach to be taken to gain and document an understanding of the internal control structure.
- Approach to be taken in determining laws and regulations that will be subject to audit test work.
- Approach to be taken in drawing audit samples for purposes of tests of compliance.
- Identify methods that Proposer will use to ensure quality control as well as budget and schedule control for the project.
- Identify any special issues or problems that are likely to be encountered with the services identified herein and how the Proposer would address them.

c) A brief description of the firm's profile, include the year founded, the form of organization, the types of services offered, size and location of offices, the number of employees, along with a statement of the firm's qualification for performing the subject financial audit services.

d) Describe the firm's past experience and performance on comparable government engagements and highlight the participation in such work by the key personnel proposed for assignment to this project.

List five (5) most significant governmental clients served in the last three (3) years that are similar to the engagement described in the scope of services, with detail description of types(s) of services performed, years of engagement, clients' key person contact information (name/address/telephone number) who is most knowledgeable about the work performed, clients' operating budget, size of clients' organization and number of clients' employees.

- e) Credentials of the Audit Team – Provide a one (1) page, single-sided resume for all individuals who will oversee and perform the work (resumes do not count towards the 10-page limit). Resumes should describe professional qualifications and relevant experience, including dates of assignments. State the name of the partner assigned to this engagement and, also, the partner assigned the responsibility for the quality of the financial reports and working papers. Identify the person whom will serve as Audit Manager. All members of the audit team must be employees of the accounting firm unless otherwise authorized by the City.

Include a statement that key personnel will be available to the extent proposed for the duration of the project acknowledging that no person designated as “key” to the project shall be removed or replaced without the prior concurrence of the City.

- f) One page, single-sided organizational chart showing key personnel names, position and reporting relationships.
- g) One page, single-sided proposed schedule for completion of assignment, where applicable. Ability to adhere to City project schedule, where given.
- (h) State whether your firm is a minority or women-owned business enterprise.
- (i) Set forth any additional information that may assist the City in evaluating your firm’s qualifications, including peer reviews within the last three (3) years and disciplinary action received within the past three (3) years. Also, describe any regulatory action taken by any oversight body against the proposing audit organization or local office.
- (j) Clearly state any exceptions with the scope of services of the City’s standard contract/agreement terms as provided within this RFP.

Fee Proposal (separate envelope)

1. Letter of transmittal (not to exceed one page) stipulating a Lump Sum Fee to perform the scope of services as described in this RFP. Also provide fee escalation for three (3) subsequent fiscal years.

The proposed Lump Sum Fee shall include payment for all direct and indirect professional, technical and clerical salaries, overhead and profit, and all out-of-pocket expenses including, but not limited to, mileage, printing, photocopying, materials, etc.

2. Additionally, proposer is required to provide a breakdown of the various hourly billing rates of key personnel proposed for assignment to this project.

Submission of Proposal

**Responses must be received by 5:00 p.m., February 22, 2011 at:
City Cler's Office
City of North Las Vegas
2200 Civic Center Drive
North Las Vegas, NV 89030
Attn: Budget Manager**

Inquiries concerning this RFP are to be directed, in writing, to the Budget Manager at the above address, or by FAX to (702) 649-5077. All inquiries submitted and the answers thereto will be mailed to all potential proposers; no verbal responses will be given.

In the event the City determines that additional clarification or information to this RFP is necessary, the City reserves the right to issue an addendum to this RFP.

Oral Presentations

After completion of the technical evaluation as described below, the City may, at its discretion, request any one or all firms to make an oral presentation to the City. Such presentations will provide firms with an opportunity to answer any questions the City may have on a firm's proposal. If such a presentation is necessary, Proposers will be notified. Failure to be prepared to make an oral presentation may prevent the firm from receiving further consideration.

NON-DISCRIMINATION AND DIVERSITY POLICY

The City prohibits discrimination in employment on the basis of race, color, religious creed, national origin, ancestry, gender, sexual orientation, age or disability. The City is strongly committed to developing and maintaining a diverse workforce and highly values the perspectives and varied experiences that are found only in a diverse workforce. The City believes that promoting diversity is important to the success of its overall mission in providing services to the citizens of North Las Vegas.

Accordingly, the City requires its consultants to comply with nondiscrimination laws and encourages them to promote diversity within their workplace. To assist the City in its selection process, Proposers may provide evidence of their policies and practices relating to diversity.

SELECTION PROCEDURE

1. It is the intention of the City to evaluate your proposal in conjunction with those received from other firms. An agreement will be awarded to the Proposer who best satisfies the overall requirements of the RFP, as determined by the City in its sole discretion. The City is not required to award the agreement to the Proposer quoting the lowest fees. This will lead to a selection and an agreement to be executed with the prospective Auditor for the work described in this RFP.

2. Technical Proposals and Fee Proposals must be delivered to the City in separate sealed envelopes prior to the time and date specified above in this RFP.
3. The City will make a selection based upon numerous criteria, including, but not limited to, the demonstrated competence, expertise, experience and qualifications of the Proposer(s). The Technical Proposals will be evaluated on the basis of, among other things, the following criteria:
 - Demonstrated understanding of the City's needs and proposed comprehensive, appropriate and adequate approaches to meet those needs;
 - Demonstrated ability and qualifications to conduct governmental audits;
 - Qualifications and technical experience of the firm;
 - Client references for the quality of governmental audit and consulting experience;
 - Familiarity with Federal and state laws, rules and regulations relevant to government audits; and
 - Credentials of audit team, the quality of the firm's professional personnel to be assigned to the engagement and the quality of the firm's management support personnel to be available for technical consultation.
4. Following the evaluation of the Technical Proposals, the Proposers' Fee Proposals will be opened and evaluated. An evaluation will be performed by comparing the Proposer's Fee Proposal to determine the fair and reasonable price for the proposer's services. The City will select the proposal that is most advantageous to the City, as determined by the City in its sole and absolute discretion. The City may take the oral presentations into account in its ranking of the Proposers, as the City deems appropriate in its discretion.
5. Negotiations will be conducted with the first-ranked Proposer. If a negotiated agreement cannot be reached with the first-ranked Proposer within a reasonable time, negotiations will be terminated and the same procedure will be set in motion with the second-ranked Proposer, and so on.
6. In making its selection, the City is not required to accept the lowest price and may, at its sole discretion, reject proposals, which are not responsive to the requirements stated herein, or may elect to waive some or all irregularities in any proposal or proposals. The waiver or non-waiver of any specific irregularity will not imply or compel similar treatment of any other irregularity.
7. There will be no debriefings for unsuccessful Proposers.
8. On all projects of this nature, the City has certain standard requirements that will be incorporated into any agreement that may be executed as a result of our evaluation of your proposal. **Exhibit A**, entitled *Sample Contract* is attached herewith and should be properly considered when preparing your final proposal; any exceptions to such agreement should be noted in the Proposer's Proposal.

9. The City shall not be liable for any costs incurred by any Proposer in the preparation of its PROPOSAL for the services requested in this RFP.

Exhibit A

**RFP 007-037
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 ___, 2011 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 (the "PROJECT");
2. The Services Provider is experienced in (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 _____, 2011, and complete the Project by _____, 2011 ***[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.
3. Is duly licensed and authorized to do business in the City, and such business license is in full force and effect; and
4. 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]** 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]** for each occurrence and **[\$2,000,000]** in the aggregate.

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

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

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,

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 G. Vaskov, Acting City Attorney

By:
Deputy City Attorney