

**PROFESSIONAL SERVICES CONTRACT  
FOR 210237-JH, FLOW MONITORING FOR SEWER COLLECTION SYSTEM – SANITARY SEWER**

THIS CONTRACT is being entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between the City of Las Vegas (hereinafter the "City"), a municipal corporation within the State of Nevada having its principal office at 495 South Main Street, Las Vegas, Nevada 89101, and ADS ENVIRONMENTAL SERVICES, (hereinafter the "Company"), a Delaware limited liability company, having its principal office located at 340 The Bridge Street, Huntsville, Alabama 35806

**SECTION A – Contract Overview**

**A-1 Summary of Contract [CAO-12/30/2020]**

This Contract sets forth the terms and conditions for the performance of services described herein, and the execution hereof by the parties hereto forms a legally binding contract. This is a Non-Exclusive Contract.

(a) <b>Contract Synopsis</b> The legally binding Scope of Work is more fully defined in Section C	Replacement of sewer monitoring equipment and the ongoing monitoring, services, web-based access and reporting for sewer flow within the City of Las Vegas.		
	<b>Performance Dates</b> The Performance Period is more fully defined in Section A-2	<b>Award Date</b> See first paragraph	<b>Expiration Date</b> July 31, 2023
<b>Contract Type</b> As defined in Section B-1	The contract type is a not-to-exceed, firm-fixed price.		
<b>Contract Amount</b> This Not-to-Exceed Amount is subject to Section C-2	\$263,000 annually		

(b) <b>Contract Exhibits / Attachments</b> The following documents are hereby incorporated into this Contract
Exhibit A – Scope of Work Exhibit B – Pricing / Fixed Fee Schedule Exhibit C – Map of Monitoring Sites Attachment 1 - Certificate of Disclosure

(c) <b>City Project Manager</b> Per Section D-4, (a)	<b>Name</b> Tim Parks	<b>Phone</b> 702-229-2178	<b>Email</b> <a href="mailto:tparks@LasVegasNevada.GOV">tparks@LasVegasNevada.GOV</a>
<b>Company Representative</b> Per Section D-4, (b)	<b>Name</b> Dave Belomy	<b>Phone</b> 510-274-7631	<b>Email</b> <a href="mailto:dbelomy@idexcorp.com">dbelomy@idexcorp.com</a>

(d) <b>City Legal Notice Representative</b> per Section E-1			
<b>Company Legal Notice Representative</b> Per Section E-1	<b>Name &amp; Title</b> Joseph J. Goustin, Assistant Treasurer	<b>Address</b> 340 The Bridge Street, Suite 204 Huntsville, AL 35806	<b>Email</b> <a href="mailto:jgoustin@idexcorp.com">jgoustin@idexcorp.com</a>  Direct: 256-430-3366 Mobile: 256-509-9170 Fax: 256-430-6633

**A-2 Performance Period [CAO-12/30/2020]**

(a) The performance period commences on the Award Date and continues through the Expiration Date.

- (b) The City may at its sole discretion, exercise the option to renew this Contract for the periods set forth above (if any). The City shall provide written notice to the Company of such renewal(s), and the Company may not assume an automatic renewal. Exercise of an option does not commit the City to exercise further options.
- (c) The City reserves the right to temporarily extend this Contract for up to one hundred eighty (180) calendar days from the Expiration Date, for any reason.

**SECTION B – Basic Terms**

**B-1 Definitions [CAO-08/28/19]**

The following definitions apply to this Contract:

- (a) *“Award Date”* means the date that a Contract becomes effective. It is the date entered into the first paragraph of a Contract upon execution by an authorized representative of the City.
- (b) *“Contract”* means this document, consisting of Sections A through E, and the exhibits and attachments attached hereto, which is binding and effective only upon execution by the City.
- (c) *“Contract Amount”* means the maximum amount of compensation that may be paid to the Company for performance of the Contract, which includes, without limitation, compensation for all direct and indirect expenses.
- (d) *“Deliverable”* means any report, software, hardware, data, documentation or other tangible item that the Company is required to provide to the City under the terms of the Contract.
- (e) *“Fixed Fee Contract”* means a contract that provides for a firm price that is not subject to any adjustment on the basis of the Company’s cost experience in performing the Contract.
- (f) *“Non-Exclusive Contract”* means a Contract under which the City agrees to obtain some, but not necessarily all, of the City’s requirements for a particular service.

**SECTION C – Scope of Work**

**C-1 Scope of Work**

- (a) Services will be provided in accordance with the Scope of Work attached as “Exhibit A”

**C-2 Deliverables/Schedule**

Task	Deliverable or Milestone	Due Date
1	<u>Safety Program</u> <ul style="list-style-type: none"> <li>• Workplace Safety Plan</li> <li>• Work Zone Safety Plan</li> <li>• Barricade Plan – Site Specific</li> </ul>	<ul style="list-style-type: none"> <li>• Fifteen (15) days after contract effective date</li> <li>• Fifteen (15) days after contract effective date</li> <li>• Fifteen (15) days prior to scheduled installation</li> </ul>
2	<u>Replacement of Existing Flow Meter Equipment (If Any)</u> <ul style="list-style-type: none"> <li>• Triton+ meters or latest model meter available</li> </ul>	<ul style="list-style-type: none"> <li>• First replacement within 45 days after contract effective date</li> <li>• All sites complete within ninety 90 days of contract effective date</li> </ul>
3	<u>Website and Training</u> <ul style="list-style-type: none"> <li>• Website Access</li> <li>• Website Training Outline and Schedule</li> <li>• Website Training</li> </ul>	<ul style="list-style-type: none"> <li>• Thirty (30) days after contract effective date</li> <li>• Fifteen (15) days after contract effective date</li> <li>• Thirty (30) days after contract effective date</li> </ul>

Task	Deliverable or Milestone	Due Date
4	<u>Service and Maintenance</u> <ul style="list-style-type: none"> <li>• Contact Information for Company's Project Manager, Field Manager, and Certified Maintenance Personnel</li> <li>• Site Calibration Report on Website</li> <li>• Data Processing</li> <li>• On-line data reporting</li> </ul>	<ul style="list-style-type: none"> <li>• Fifteen (15) days after contract effective date</li> <li>• Fifteen (15) days after initial and subsequent calibrations</li> </ul>

(b) The City will pay the amounts set forth in "Exhibit B".

### SECTION D – Special Conditions

#### D-1 Payment [CAO-4.2020]

- (a) Payment Payment to the Company will be made only for the actual services performed and accepted by the City, upon receipt of an invoice submitted in accordance with Section D-3, "Invoices".
- (b) Reimbursable Travel Expenses There are no reimbursable travel expenses authorized or payable under this Contract.

#### D-2 Fee Revisions [CAO-08/28/19]

For the term of this Contract, fees shall remain firm.

#### D-3 Invoices

- (a) The Company will submit a timely detailed invoice to the City monthly, for work performed to date. Each invoice shall contain the following information:
- (i) the date of the invoice and invoice number;
  - (ii) the Purchase Order number;
  - (iii) the Contract Item against which charges are made; and
  - (iv) the performance dates covered by the invoice.
- (b) Upon reconciliation of all errors, corrections, credits, and disputes, payment for all non-disputed portions of Company's invoice will be made in full within thirty (30) calendar days from receipt by City. **Invoices received without a valid Purchase Order number will be returned unpaid.** Notwithstanding the foregoing, this paragraph shall in no way waive the City's rights and remedies should the City find any errors or omissions in an invoice before or after said invoice is paid by the City.

**The Company shall submit the original invoice to:**

Department of Finance  
ATTN: Accounts Payable  
City of Las Vegas  
495 South Main Street, 4<sup>th</sup> Floor  
Las Vegas, NV 89101-2986

- (c) The Company shall forward a copy of the invoice to the City's Project Manager, identified in Section D-4, "Project Manager/Company Representative", with the following items:
- (i) receipts for any Reimbursable Travel Expenses, if applicable, associated with the invoice; and
  - (ii) copy of the applicable Deliverable associated with the invoice

The City may subtract or offset from any unpaid invoice from the Company any claims, which the City may have incurred for failure of the Company to comply with the terms, conditions or covenants of this Contract, or any damages, costs and expenses to the extent caused by, resulting from, or arising out of the negligent act or omission of the Company in the performance of the services under this Contract. Within ten (10) calendar days, the City shall provide a written statement to the Company of the off-set which has been subtracted from any payment to the Company along with appropriate documentation and receipts, if any, and a description of the failure, error or deficiency attributed to the Company. The Company may dispute the right or amount of the off-set made by the City by providing written notification to the City within ten (10) calendar days after receipt of the City's written notice. The City shall provide a written response to the Company within ten (10) calendar days of receipt of the Company's written dispute notice. If the Company disputes the City's determination, the Company may file a claim pursuant to Section E-2, "Disputes" of this Contract.

#### **D-4 Project Manager/Company Representative [CAO-8/28/19]**

- (a) The City's designated Project Manager for this Contract is named in Section A-1 (c). The City will provide written notice to the Company should there be a subsequent Project Manager change. The Project Manager will be the Company's principal point of contact at the City regarding any matters relating to this Contract, will provide all general direction to the Company regarding Contract performance, and will provide guidance regarding the City's goals and policies. *The Project Manager is not authorized to waive or modify any material scope of work changes or terms of the Contract.*
- (b) The Company's designated Company Representative for this Contract is named in Section A-1 (c). The Company will provide written notice to the City should there be a subsequent Company Representative change. The City has the right to assume that the Company Representative has full authority to act for the Company on all matters arising under or relating to this Contract.

#### **D-5 Insurance [CAO-04/2020]**

- (a) The Company shall procure and maintain, at its own expense, during the entire term of the Contract, the following coverage(s):
  - (i) Industrial/Workers' Compensation Insurance protecting the Company and the City from potential Company employee claims based upon job-related sickness, injury, or accident, during performance of this Contract, and must submit proof of such insurance on a certificate of insurance issued by an insurer qualified to underwrite workers' compensation insurance in the State of Nevada, in accordance with NRS 616A-616D, inclusive. If Company is a sole proprietor, it will be required to submit an affidavit indicating that the Company has elected not to be included in the terms, conditions and provisions of NRS 616A-616D, inclusive, and is otherwise in compliance with those terms, conditions and provisions. The Company's Workers' Compensation policy shall have a waiver of subrogation endorsement in favor of the City of Las Vegas.
  - (ii) Commercial General Liability Insurance (bodily injury, property damage) with respect to the Company's agents assigned to the activities performed under this Contract in a policy limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate, for bodily injury, products, completed operations, personal injury and property damages. Such coverage shall be on an "occurrence" basis and not on a "claims made" basis, and be provided on either a Commercial General Liability or a Broad Form Comprehensive General Liability (including a Broad form CGL endorsement) insurance form. The form must be written on an ISO Form CG 00 01 10 01, or an equivalent form. The Company's General Liability policy shall have a waiver of subrogation endorsement in favor of the City of Las Vegas, and shall be endorsed to include the City, its officers, and employees as additional insured.
  - (iii) Commercial Automobile Liability Insurance of limits no less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage to include, but not be limited to, coverage against all insurance claims for injuries to persons or damages to property which may arise from services rendered by Company and any auto used in the performance of services under this Contract. The policy must insure all vehicles **owned** by the Company and include coverage for **hired** and **non-owned** vehicles. If the services requested do not require the use of the vehicle to perform, the Commercial Automobile Liability Insurance requirements as described in this paragraph do not apply. The Company's Automobile Liability policy shall have a waiver of subrogation endorsement in favor of the City of Las Vegas, and shall be endorsed to include the City, its officers, and employees as additional insured.
  - (iv) Professional Liability Insurance (Errors and Omissions Coverage) protecting the Company 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 coverage shall be in a minimum amount of \$1,000,000, combined single limit and in the aggregate, for

the period of time covered by this Contract. If coverage is on a “claims made” basis, then it must continue for a period of two years beyond the completion or termination of this Contract. Any retroactive coverage must coincide with or predate the beginning of this Contract and may not be changed without the consent of the City.

- (b) The Company must provide compliant certificates of insurance and required endorsements to the City or its designated certificate tracking service immediately upon request. The Company shall maintain coverage for the duration of this Contract, and any renewal periods if applicable. The Company shall annually provide the City's designated certificate tracking service with a certificate of insurance and endorsements as evidence that all insurance requirements have been met. A certified, true, and exact copy of each of the project specific insurance policies (including renewal policies) required under this Section shall be provided to the City or it's designated certificate tracking service if so requested.
- (c) All required aggregate limits must be disclosed and amounts entered on the certificate(s) of insurance. The certificates must identify the Contract number and the Contract description. The Company and/or insurance carrier shall provide the City with a 30-day advance notice of policy modification, cancellation, or erosion of insurance limits, sent by certified mail “return receipt requested”.
- (d) The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer and licensed by the State of Nevada. Each insurance carrier's rating as shown in the latest Best's Key Rating Guide shall be fully disclosed and entered on the required certificate of insurance. The City requires insurance carriers to maintain a Best's Key minimum rating of A- VII, A- VIII, A- IX, A- X, or higher. The adequacy of the insurance supplied by the Company, including the rating and financial health of each insurance carrier providing coverage, is subject to the approval of the City.
- (e) All deductibles and self-insurance retentions shall be fully disclosed in the certificate of insurance. No deductible or self-insured retention may exceed \$250,000 without the prior written approval of the City.
- (f) **Companies requesting increased deductibles or self-insured retentions must provide the City a written request stating the desired amounts along with recent audited financial statements for review. The City will review the request and determine if the requested deductibles or self-insured retentions are acceptable. In the event the request for increased deductibles or self-insured retentions is denied, the Company is obligated to provide the deductibles or self-insured retentions established in the Contract at no additional expense to the City.**
- (g) If the Company fails to carry the required insurance, the City may (i) order the Company to stop further performance hereunder, declare the Company in breach, pursuant to Section E-5, “Event of Default”, terminate the Contract if the breach is not remedied and, if permitted, assess liquidated damages, or (ii) purchase replacement insurance and withhold the costs or premium payments made from the payments due to the Company or charge the replacement insurance costs back to the Company.
- (h) Any subcontractor or subconsultant approved by the City shall be required to procure, maintain, and submit proof of insurance to the City of the same insurance requirements as specified above, and as required in this paragraph.
- (i) The Company is encouraged to purchase any additional insurance it deems necessary.
- (j) The Company is required to remedy all injuries to persons and damage or loss to any property of the City caused in whole or in part by the Company, its subcontractors or anyone employed, directed, or supervised by the Company.

#### **D-6 Warranty – Services [CAO-4/2020]**

Company warrants that the services shall be performed in full conformity with this Contract, with the professional skill and care that would be exercised by those who perform similar services in the commercial marketplace, and in accordance with accepted industry practice. In the event of a breach of this warranty, or in the event of non-performance or failure of the Company to perform the services in accordance with this Contract, the Company shall, at no cost to the City, re-perform or perform the services so that the services conform to the warranty.

#### **D-7 through D-17 – Reserved**

#### **D-18 Holidays/Weekends [CAO-01/20/16]**

The Company is excused from performance on weekends and the following legal holidays (on the actual day the holiday is observed):



- (b) If arbitration is selected by the City as the forum for further resolution, the claim or dispute shall be filed with the American Arbitration Association under its then current Commercial Arbitration Rules, Expedited Procedures, regardless of the amount of the claim or dispute.
- (c) The laws of the State of Nevada shall govern the validity, construction, performance, and effect of this Contract, without giving effect to its conflict of law provisions. If arbitration is selected, each party hereto consents to, and waives any objection to, venue being the offices of the American Arbitration Association located in Las Vegas, Nevada, or other venue mutually agreed by the parties. If litigation is selected, each party hereto consents to, and waives any objection to, the State courts located in the County of Clark, State of Nevada as the proper and exclusive venue for any disputes arising out of or relating to this Contract or any alleged breach thereof. Each party hereby waives trial by jury in any action, proceeding or counterclaim brought by either of them against the other on any matters whatsoever arising out of or in any way connected with this Contract.

**E-3 Notice of Delay [CAO-01/20/16]**

- (a) If timely performance by the Company is jeopardized by the non-availability of City provided personnel, data, or equipment, the Company shall notify the City immediately in writing of the facts and circumstances causing such delay. Upon receipt of this notification, the City will advise the Company in writing of the action which will be taken to remedy the situation.
- (b) The Company shall advise the City in writing of an impending failure to meet established milestones or delivery dates based on the Company's failure to perform. Notice shall be provided as soon as the Company is aware of the situation; however, such notice shall not relieve the Company from any existing obligations regarding performance or delivery.

**E-4 Termination for Convenience [CAO-08/22/2019]**

The City shall have the right at any time to terminate further performance of this Contract, in whole or in part, for any reason whatsoever (including no reason). Such termination shall be effected by at least thirty (30) days written notice from the City to the Company specifying the extent and effective date of the termination. On the effective date of the termination, the Company shall terminate all work and take all reasonable actions to mitigate expenses. The Company shall submit a written request for incurred costs for services performed through the date of termination, and shall provide any substantiating documentation requested by the City. In the event of such termination, the City agrees to pay the Company within thirty (30) days after receipt of a correct, adequately documented written request. The City's sole liability under this Section is for payment of costs for goods and services requested by the City and actually performed by the Company.

**E-5 Event of Default [CAO-12/30/2020]**

- (a) If, during the term of this Contract, the Company (i) fails to deliver services that comply with the Scope of Work, (ii) fails to deliver the services within the time specified in the Purchase Order or Scope of Work or any extension thereof, (iii) fails to make progress so as to endanger the performance of this Contract, (iv) becomes insolvent, bankrupt or makes an assignment for the benefit of creditors, or if a receiver or trustee in bankruptcy is appointed for the Company, or if any proceeding in bankruptcy, receivership, or liquidation is instituted against the Company and is not dismissed within thirty (30) days following commencement thereof, or (v) fails to perform any of the other obligation or requirement of this Contract, then any of the aforementioned failures shall constitute an "Event of Default" under this Contract.
- (b) If there occurs an Event of Default, the Company shall be entitled to ten (10) calendar days from written notice thereof to remedy the Event of Default, provided, however, such is capable of being remedied within that period. If the Event of Default can be remedied, but the remedy cannot be completed within the ten (10) day period, the Company may be allowed such additional time as may be reasonably necessary to remedy the Event of Default, provided, however, the remedy is commenced within the ten (10) day period and is diligently pursued to completion but in no event later than thirty (30) days after such written notice. Said time period may be extended at City's sole discretion. If the Event of Default is incapable of remediation, or is not remedied as required herein, the City may, in addition to any other remedies available in law or equity, invoke any of the remedies provided for under Section E-6, "Termination for Default", below.

**E-6 Termination for Default [CAO-4/2020]**

- (a) If the Event of Default is not remedied as required pursuant to Section E-5, "Event of Default", the City may, by written notice to the Company pursuant to Section E-1, "Legal Notice", terminate this Contract in whole or in part.

- (b) If this Contract is terminated in whole or in part because the Company has failed to provide services in compliance with the specifications by the deadline of remediation period, the City may acquire, under reasonable terms and in a manner it considers appropriate, replacement services that are comparable to the services that the Company failed to deliver to the City, and the Company shall be liable to the City for any excess costs related thereto. If the City terminates this Contract only in part, the Company shall continue to perform the un-terminated obligations or portions of this Contract.
- (c) The Company shall not be liable for any excess costs if the failure to perform the Contract arises from circumstances beyond the control of, and without the fault or negligence on the part of, the Company. These circumstances are limited to such causes as (i) acts of God or of the public enemy, (ii) acts of governmental bodies, (iii) fires, (iv) floods, (v) epidemics/pandemics, (vi) quarantine restrictions, (vii) labor strikes, (viii) freight embargoes, or (ix) unusually severe weather. The time of performance of the Company's obligations under this Contract shall be extended by such period of enforced delay; provided, however, that such reasonably extended time period shall not exceed sixty (60) days. If the foregoing circumstances result in a delay greater than 60 days, the City may terminate the affected portion of the Contract pursuant to the terms of Section E-4, "Termination for Convenience".
- (d) The City retains the right to terminate for default immediately if the Company fails to maintain the required insurance, and/or bonding, fails to comply with applicable local, state, and federal statutes governing performance of these services, or fails to comply with statutes involving health or safety.
- (e) If the City fails to perform any of its obligations required under this Contract, and the City does not remedy the failure after notice thereof is provided to the City by the Company pursuant to the requirements of Section E-1, "Legal Notice" above, the Company shall have the right to treat the failure as a claim or dispute subject to the resolution provisions of E-2, "Disputes" of this Contract. During the period of such resolution, the Company shall continue with its performance under the Contract.

#### **E-7 Limitation of Funding/Non-Appropriation [CAO-4/2020]**

The Company acknowledges that City is a governmental entity and the Contract's validity is based upon the availability of public funding under its authority. The City reserves the right to reduce estimated or actual quantities, in whatever amount necessary, without prejudice or liability to the City, if funding is not available or if legal restrictions are placed upon the expenditure of monies for the services required under this Contract. In addition, and without prejudice or liability to the City, if funds are not appropriated or otherwise made available to support continuation in any fiscal year succeeding the first fiscal year, this Contract will be deemed to have been terminated automatically **when appropriated funds expire and** are not available. The City shall notify Company in writing of any such non-allocation of funds at the earliest possible date and shall pay Company any reasonable fees earned and costs incurred in performing this Contract for any period prior to such notice.

#### **E-8 Changes - Fixed-Price Goods or Services**

- (a) The City may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this Contract in any one or more of the following:
  - (i) Description of services to be performed or goods to be provided.
  - (ii) Time of performance (i.e., hours of the day, days of the week, etc.).
  - (iii) Place of performance of the services.
  - (iv) Time or place of delivery of goods
- (b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this Contract, the City shall make an equitable adjustment in the Contract price, the delivery schedule, or both, and shall modify the Contract.
- (c) The Company must assert its right to an adjustment under this clause within thirty (30) days from the date of receipt of the written order; however, if the City decides that the facts justify, the City may receive and act upon a proposal submitted before final payment of the Contract.
- (d) The parties shall negotiate a timely requested equitable adjustment by mutual written agreement and the change will be effected by purchase order revision. Failure to agree to any adjustment shall be a dispute under Section E-2, "Disputes"; however, nothing in this clause shall excuse the Company from proceeding with the Contract as changed.

**E-9 Entire Contract, Section and Paragraph Headings [CAO-4/2020]**

- (a) This Contract represents the entire and integrated agreement between the City and the Company. It supersedes all prior and contemporaneous understandings, negotiations, communications, representations, and agreements, whether oral or written, relating to the subject matter of this Contract.
- (b) The section and paragraph headings appearing in this Contract are inserted for the purpose of convenience and ready reference. They do not purport to define, limit, or extend the scope or intent of the language of the sections and paragraphs to which they pertain.

**E-10 Order of Precedence [CAO-7/24/08]**

In the event of a conflict between the specific language set forth in Sections A through E of this Contract and any Attachment or Exhibit, the specific language in Sections A through E shall prevail. Any exception to this order of precedence will be addressed through specific language elsewhere in Sections A through E.

**E-11 Severability [CAO-7/24/08]**

The invalidity, illegality, or unenforceability of any provision of this Contract or the occurrence of any event rendering any portion or provision of this Contract void shall in no way affect the validity or enforceability of any other portion or provision of this Contract. Any void provision shall be deemed severed from this Contract, and the balance of this Contract shall be construed and enforced as if this Contract did not contain the particular portion or provision held to be void. The parties further agree to amend this Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this clause shall not prevent this entire Contract from being void should a provision which is of the essence of this Contract be determined void.

**E-12 Waiver [CAO-7/24/08]**

Waiver of any of the terms of this Contract shall not be valid unless it is in writing signed by each party. The failure of the City to enforce any of the provisions of this Contract, or to require performance of any of the provisions herein, shall not in any way be construed as a waiver of such provisions or to affect the validity of any part of this Contract, or to affect the right of the City to thereafter enforce each and every provision of this Contract. Waiver of any breach of this Contract shall not be held to be a waiver of any other or subsequent breach of this Contract.

**E-13 Modification/Amendment [CAO-7/24/08]**

This Contract shall not be modified or amended except by the express written agreement of the parties, signed by a duly authorized representative for each party. Any other attempt to modify or amend this Contract shall be null and void, and may not be relied upon by either party.

**E-14 Assignment [CAO-7/24/08]**

Neither party may assign their rights nor delegate their duties under this Contract without the written consent of the other party. Such consent shall not be withheld unreasonably. Any assignment or delegation shall not relieve any party of its obligations under this Contract.

**E-15 Indemnification [CAO-4/2020]**

- (a) In addition to the insurance requirements set forth in Section D-5, "Insurance", and not in lieu thereof, the Company shall protect, defend, indemnify and hold harmless the City, its elected officials, officers, employees, agents, and consultants (collectively herein the "City") from and against any and all claims, liabilities, damages, losses, suits, actions, decrees, arbitration awards and judgments including attorney's fees, court costs or other expenses of any and every kind or character (collectively herein the "Liabilities") which may be recovered from or sought against the City, as a result of, by reason of, or as a consequence of (i) any act or omission, negligent or otherwise, on the part of the Company, its officers, employees, independent contractors, vendors, suppliers, consultants, or agents in the performance of the terms, conditions and covenants of the Contract; or (ii) a breach of any agreement between the Company and its employees, vendors, independent contractors, suppliers, consultants or agents; or (iii) any default in the performance of any obligation on Company's part to be performed under the terms of this Contract, regardless of whether the Liabilities were caused in part by the City. Company agrees that it is assuming the sole risk of any Liabilities related to the contraction by Company's officers, employees, vendors, suppliers, agents, independent contractors, and

consultants or any other person of any viral infection or other disease, including, without limitation, COVID 19, related to the performance of this Contract and that Company's indemnity obligations contained herein cover any such Liabilities. In no event shall the language in this Section constitute or be construed as a waiver or limitation of the City's rights or defenses with regard to sovereign immunity, governmental immunity, or other official immunities and protections as provided by the Federal and State Constitutions or by law.

- (b) If a third party claim against the City for negligent performance by the Company is within the limits of its liability insurance, and the insurance company has accepted the City's tender of defense, then the City will pay the Company what is due and owing to them within the payment method specified in this Contract. However, if the claim is greater than the coverage amount, the City, for its protection, may retain any money due and owing the Company under this Contract, until the claim has been resolved. In the event no money is due and owing, the surety, if required, of the Company, may be held until all of the Liabilities have been settled and suitable evidence to that effect furnished to the City.
- (c) It is expressly agreed that the Company shall defend the City at Company's expense, by legal counsel reasonably satisfactory to City, against the Liabilities and in the event that the Company fails to do so, the City shall have the right, but not the obligation, to defend the same and to charge all direct and incidental costs, including attorney's fees and court costs, to the Company. Company's indemnity obligations herein are not intended to nor shall they relieve any insurance carrier of its obligations under policies required to be carried by Company pursuant to the provisions of this Contract. Company's obligations under this Section shall survive any termination of this Contract.

#### **E-16 Patent Indemnity [CAO-12/30/2020]**

The Company hereby indemnifies and shall defend and hold harmless the City and its representatives respectively from and against all claims, losses, costs, damages, and expenses, including attorney's fees, incurred by City and its representatives, respectively, as a result of or in connection with any claims or actions based upon infringement or alleged infringement of any patent or other intellectual property and arising out of the use of the equipment or materials furnished under the contract by the Company, or out of the processes or actions employed by, or on behalf of the Company in connection with the performance of the Contract. The Company shall, at its sole expense, by legal counsel reasonably satisfactory to City, promptly defend against any such claim or action unless directed otherwise by the City or its representative; provided that the City or its representatives shall have notified the Company upon becoming aware of such claims or actions, and provided further that the Company's aforementioned obligations shall not apply to equipment, materials, or processes furnished or specified by the City or its representatives.

#### **E-17 Audit of Records [CAO-5/2/12]**

- (a) The Company agrees to maintain the financial books and records (including supporting documentation) pertaining to the performance of this Contract according to standard accounting principles and procedures. The books and records shall be maintained for a period of three (3) years after completion of this Contract, except that books and records which are the subject of an audit finding shall be retained for three (3) years after such finding has been resolved. If the Company goes out of business, the Company shall forward the books and records to the City to be retained by the City for the period of time required herein.
- (b) The City or its designated representative(s) shall have the right to inspect and audit (including the right to copy and/or transcribe) the books and records of the Company pertaining to the performance of this Contract during normal business hours. The City will provide prior written notice to the Company of the audit and inspection. If the books and records are not located within Clark County, the Company agrees to deliver them to the City, or to an address designated by the City within Clark County. In lieu of such delivery, the Company may elect to reimburse the City for the cost of travel (including transportation, lodging, meals, and other related expenses) to inspect and audit the books and records at the Company's office. If the books and records provided to the City are incomplete, the Company agrees to remedy the deficiency after written notice thereof from the City, and to reimburse the City for any additional costs associated therewith including, without limitation, having to revisit the Company's office. The Company's failure to remedy the deficiency shall constitute a material breach of this Contract. The City shall be entitled to its costs and reasonable attorney fees in enforcing the provisions of this Section.
- (c) If at any time during the term of this Contract, or at any time after the expiration or termination of the Contract, the City or the City's designated representative(s) find the dollar liability is less than payments made by the City to the Company, the Company agrees that the difference shall be either: (i) repaid immediately by the Company to the City or (ii) at the City's option, credited against any future billings due the Company.

**E-18 Confidentiality – City Information [CAO-4/2020]**

- (a) All information, including but not limited to, oral statements, computer files, databases, and other material or data supplied to the Company is confidential and privileged. The Company shall not disclose this information, nor allow to it be disclosed to any person or entity without the express prior written consent of the City. The Company will use at least the same standard of care and exercise equivalent security measures to maintain the confidentiality of the City's information that it uses to maintain the confidentiality of its own confidential information; provided in no event shall such standard be less than reasonable care. The Company shall have the right to use any such confidential information only for the purpose of providing the services under this Contract, unless the express prior, written consent of the City is obtained. City shall be and remain the sole owner of such confidential information. Nothing contained in this Contract shall be construed as granting or conferring any right or license in the City's information or in any patents, software, or other technology, either expressly or by implication to the Company. Upon request by the City, the Company shall promptly return to the City all confidential information supplied by the City, together with all copies and extracts. Company is required to employ the highest ethical standards and shall avoid those actions that are inconsistent with the City's best interest.
- (b) The confidentiality requirements shall not apply where (i) the information is, at the time of disclosure by the City, then in the public domain; (ii) the information is known to the Company prior to obtaining the same from the City; (iii) the information is obtained by the Company from a third party who did not receive the same directly or indirectly from the City; or (iv) the information is subpoenaed by court order or other legal process, but in such event, the Company shall notify the City. In such event the City, in its sole discretion, may seek to quash such demand.
- (c) The obligations of confidentiality shall survive the termination of this Contract.

**E-19 Marketing Restrictions [CAO-4/2020]**

The Company shall at all times be in compliance with Las Vegas Municipal Code 1.08.050, and shall not publish or sell any information from or about this Contract without the prior written consent of the City. This restriction does not apply to the use of the City's name in a general list of customers, so long as the list does not represent an express or implied endorsement of the Company or its services. The City logo shall not be used without the prior written consent of the City.

**E-20 Intellectual Property Rights [CAO-4/2020]**

All deliverables produced under this Contract, as well as all data, notes and documentation collected on behalf of the City, are exclusively the property of the City. The Company shall have no property interest in, and may assert no claim or lien on, or right to withhold from the City, or right to use said data other than in performance of its obligations pursuant to this Contract, any data it receives from, receives access to, or stores on behalf of the City. At any time during the term of this Contract, and within thirty (30) days of the expiration or termination of this Contract, the Company will upon request return the data to the City at no charge in the format held by Company. On City request, the Company will delete all City data and will provide appropriate certification to the City to document the disposal. The Company shall promptly notify the City if the Company becomes aware of any unauthorized access, acquisition, disclosure, use, modification, destruction or other misuse of the City's data or other confidential information, and shall fully cooperate with the City in any legal action taken by the City to enforce its rights therein. This Section shall survive termination or expiration of this Contract.

**E-21 Taxes/Compliance with Laws [CAO-08/01/13]**

- (a) The City is exempt from paying Sales and Use Taxes under the provisions of Nevada Revised Statutes 372.325(4), and Federal Excise Tax, under Registry Number 88-87-0003k. The Company shall pay all taxes, levies, duties and assessments of every nature and kind which may be applicable to any work under this Contract. The Company shall make any and all payroll deductions required by law. The Company agrees to indemnify and hold the City harmless from any liability on account of any and all such taxes, levies, duties, assessments, and deductions.
- (b) The Company, in the performance of the obligations of this Contract, shall comply with all applicable laws, rules and regulations of all governmental authorities having jurisdiction over the performance of this Contract including, but not limited to, the Federal Occupational Safety and Health Act.

**E-22 Licenses/Registrations [CAO-01/20/16]**

During the entire performance period of this Contract, the Company shall maintain all federal, state, and local licenses, certifications and registrations applicable to the work performed under this Contract, including maintaining an active City of Las Vegas business license if required by Las Vegas Municipal Code 6.02.060.

**E-23 Non-Discrimination and Fair Employment Practices [CAO-07/31/13]**

- (a) **Discrimination:** The City of Las Vegas is committed to promoting full and equal business opportunity for all persons doing business in Las Vegas. The Company acknowledges that the City has an obligation to ensure that public funds are not used to subsidize private discrimination. Company recognizes that if the Company or their subcontractors or subconsultants are found guilty by an appropriate authority of refusing to hire or do business with an individual or company due to reasons of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, national origin, or any other legally protected status, City may declare the Company in breach of contract and terminate Contract.
- (b) **Fair Employment Practices:** In connection with the performance of work under this Contract, the Company agrees not to discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, sexual orientation, gender identity or expression, age, disability, national origin, or any other legally protected status. Such agreement shall include, but not be limited to, the following: 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 apprenticeship.
- (c) The Company further agrees to insert this provision in all subcontracts hereunder. Any violation of such provision by a Company shall constitute a material breach of this Contract.

**E-24 Employment of Unauthorized Aliens [CAO-01/20/16]**

In accordance with the Immigration Reform and Control Act of 1986, the Company agrees that it will not employ unauthorized aliens in the performance of this Contract.

**E-25 Conforming Services [CAO-4/2020]**

The services performed under this Contract shall conform in all respects with the requirements set forth in this Contract. The Company shall furnish the City with sufficient data and information needed to determine if the services performed conform to all the requirements of this Contract.

**E-26 Independent Contractor [CAO-4/2020]**

In the performance of its obligations under this Contract, the Company and any other person employed by it shall be deemed to be an independent contractor and not an agent or employee of the City. The Company shall be liable for the actions of any person, organization, or corporation with which it subcontracts to fulfill this Contract. Accordingly, Company shall be responsible for payment of all taxes including federal, state and local taxes arising out of the Company's activities in accordance with this Contract, including by way of illustration but not limitation, federal and state income tax, Social Security tax, unemployment insurance taxes, and any other taxes or business license fees as required under existing or subsequently enacted laws, rules or regulations. Company shall not be entitled to any benefits afforded to City's employees, including without limitation worker's compensation, disability insurance, health insurance, vacation, or sick pay. Company shall be responsible for providing, at Company's expense, and in Company's name, unemployment, disability, worker's compensation, and other insurance, as well as licenses and permits usual or necessary for performance of its obligations pursuant to this Contract. Company shall hereby defend, indemnify, and hold the City harmless from any claims, losses, costs, fees, attorney's fees, liabilities, damages or injuries suffered by the City arising out of Company's failure with respect to its obligations in this Section. Company, upon request, shall furnish evidence satisfactory to the City that any or all of the foregoing obligations have been fulfilled. During Company's contacts with third parties they shall identify themselves as an independent party and not as an employee for the City. Company understands and agrees that they do not have the power or authority to bind City in any capacity. The City shall hold the Company as the sole responsible party for the performance of this Contract. The Company shall maintain complete control over its employees and all of its subcontractors. Nothing contained in this Contract or any subcontract awarded by the Company shall create a partnership, joint venture, or agency with the City. Neither party shall have the right to obligate or bind the other party in any manner to any third party.

**E-27 Official, Agent and Employees of the City Not Personally Liable [CAO-01/20/16]**

It is agreed by and between the parties of this Contract, that in no event shall any official, officer, employee, or agent of the City in any way be personally liable or responsible for any covenant or agreement therein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this Contract.

**E-28 Conflict of Interest (City Officials) [CAO-4/2020]**

- (a) An official of the City, who is authorized on behalf of the City to negotiate, make, accept or approve, or take part in negotiating, making, accepting, or approving this Contract, payments under this Contract, or work under this Contract, shall not be directly or indirectly interested personally in this Contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of, or for the City, who is authorized on behalf of the City to exercise any legislative, executive, supervisory or other similar functions in connection with this Contract, shall become directly or indirectly interested personally in this Contract or in any part hereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to this Contract.
- (b) Each party represents that it is unaware of any financial or economic interest of any public officer or employee of the City relating to this Contract. Notwithstanding any other provision of this Contract, if such interest becomes known, the City may immediately terminate this Contract for default or convenience, based on the culpability of the parties.
- (c) The Company represents and warrants that it has, in accordance with the current policy of the City, disclosed the ownership and principals of the Company on Attachment 1 (Certificate – Disclosure of Ownership and /Principals), and that it has a continuing obligation to update this disclosure whenever there is a material change in the information contained therein. Throughout the Contract Term, Company shall notify City in writing of any material change in the above disclosure within ten (10) days of any such change.

**E-29 Public Records [CAO-5/2/12]**

The City is a public agency as defined by state law. As such, it is subject to the Nevada Public Records Law (Chapter 239 of the Nevada Revised Statutes). The City's Records are public records, which are subject to inspection and copying by any person (unless declared by law to be confidential). This Contract and all supporting documents are deemed to be public records.

**E-30 Use By Other Government Entities [CAO-01/20/16]**

A governing body or its authorized representative and the State of Nevada may join or use the contracts of local governments located within or outside this State with the authorization of the contracting vendor. In the event the Company allows another governmental entity to join the Contract, it is expressly understood that the City shall in no way be liable for the obligations of the joining governmental entity.

**E-31 Certification – No Israel Boycott [CAO-4/2020]**

*(Applicable to contracts with an estimated annual amount over \$100,000)*

By signing this Contract, the Company certifies that it is not engaged in, and agrees for the duration of the Contract not to engage in, a boycott of the State of Israel per NRS 332.065.

"Boycott of Israel" means refusing to deal or conduct business with, abstaining from dealing or conducting business with, terminating business or business activities with or performing any other action that is intended to limit commercial relations with Israel; or a person or entity doing business in Israel or in territories controlled by Israel, if such an action is taken in a manner that discriminates on the basis of nationality, national origin or religion. It does not include an action which is based on a bona fide business or economic reason; is taken pursuant to a boycott against a public entity of Israel if the boycott is applied in a nondiscriminatory manner; or is taken in compliance with or adherence to calls for a boycott of Israel if that action is authorized in 50 U.S.C. § 4607 or any other federal or state law.

"Company" means any domestic or foreign sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited-liability partnership, limited-liability company, or other domestic or foreign entity or business association, including, without limitation, any wholly owned subsidiary, majority owned subsidiary, parent company or affiliate of such an entity or business association, that exists for the purpose of making a profit.

A violation of this Section by Company shall be considered an incurable Event of Default of this Contract, thereby allowing the City to immediately terminate this Contract upon giving Legal Notice to Company.



**EXHIBIT A - SCOPE OF WORK**

**Task 1: Safety Program**

- a. The Company will submit a copy of their Workplace Safety Programs for the City’s review. Programs may include but are not limited to the following:
  - Hazard Communication - including all material safety data sheets for any chemicals being utilized during the Work
  - Confined Space Entry
  - Any applicable licenses/certifications required to perform the task required in the Scope of Work
  
- b. The Company will submit a Work Zone Safety and Barricading Plan for each metering site that meets the current requirements of the latest edition of the Manual for Uniform Traffic Control Devices. The plan shall be reviewed and approved by the City’s Traffic Engineer or the City’s Traffic Engineer representative. The Company shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs required to complete this work. The Company shall comply with all applicable laws, rules, regulations and lawful orders of any public authority bearing on the safety of person(s) or property from damage, injury or loss including all applicable Occupational Safety and Health Regulations.

Barricade Plans may require approval from the Clark County Department of Public Works Development Services and/or the Nevada Department of Transportation (NDOT). (See table II-A for meter locations requiring approval by other governmental agencies.)

<b>SITE</b>	<b>Clark County – PW</b>	<b>NDOT</b>
Charleston_28		i
Durango_21	i	
EASahara_LV3	i	i
Gowan_LV14	i	
LakeMead_18	i	
Rancho_24		i
RioVista_LV12	i	
Sahara_23	i	i
WSahara_LV15	i	

Table II-A

Note that high speed multi-lane roadways of forty-five (45) miles per hour or greater, or work performed within fifteen (15) feet of the right way require that an attenuator vehicle be utilized. Roadways of thirty-five (35) miles per hour or greater require an arrow board be utilized.

- c. The work may require lane closures to provide a buffer space for workers during the off-peak hours. Arterial roads such as Sahara Avenue, Charleston Boulevard and Rancho Road may require work during off peak hours, overnight and/or on weekends.
  
- d. The Company shall take all reasonable precautions for the safety of all employees and all other persons who may be affected thereby. The Company shall provide all employees performing the work appropriate personal protective equipment that may include but is not limited to the following:
  - Hard hat
  - Hearing Protection
  - Steel Toe Boots

- Long Sleeve Shirts
  - Long Pants
  - Safety Glasses/Goggles
  - Gloves
  - Class 2 green retro-reflective vest for daytime work in roadways
  - Class 3 green retro-reflective vest for nighttime work in roadways
  - Tri-pod for confined space entry
  - Body Harness
  - Air monitoring equipment capable of measuring oxygen, carbon monoxide, hydrogen sulfide and explosive gasses levels
- e. The Company is responsible to ensure employees are adequately trained and certified to complete this scope of work.

Task 2: Flow Meter Equipment

- a. Flow meter equipment shall have the following minimum requirements:
- Battery powered
  - Secure telemetry for remote data access and diagnostics via website
  - English units of measurement
  - Sufficient on-board memory to prevent data loss
  - Ability to withstand raw wastewater composition and associated conditions
  - Ability to measure accurately within range of prospective pipelines from 8 to 104 inches in diameter
- b. The City advocates the notion that there may not be one flow meter or flow meter technology that is appropriate for all hydraulic conditions. The Company must have experience using a variety of flow meter equipment available within the industry.
- c. The Company is required to evaluate the existing flow metering sites to select the most appropriate flow meter equipment for the hydraulic conditions and available area of each metering location. It is the contractor's sole responsibility to determine the appropriate flow meter equipment required at each site in order to meet the requirements of this contract.
- d. The flow meter equipment shall accurately and reliably measure the full range of flow passing through the site. All flow meters shall be area-velocity flow, capable of measuring depth and velocity, and capable of measuring flow in surcharged conditions. A minimum of two (2) sensors are required for redundancy to measure depth. The Company shall ensure that the flow meter equipment maintains accurate flow measurements under all conditions to which the equipment may be exposed. The accuracy of the depth and velocity sensors shall be within 1% for depth and 2% for velocity.
- e. All flow meter equipment shall be owned, maintained, and serviced by the Company. The Company shall be responsible for damage done to the flow meter equipment as a result of exposure to the raw wastewater environment. The Company is responsible for lost or stolen flow meter equipment. The Company shall repair and carry out all preventative maintenance needed for reliable operation of the flow meter equipment.
- f. Flow data shall be recorded in 15 minute intervals, and uploaded via wireless telemetry to the Company's provided website at a minimum of twenty four (24) hour intervals. The City will also have all required permissions and clearances to access, view, and download data directly from the flow meters at all times. All flow data and any associated databases or auxiliary data shall be stored on the Company's provided web based server.

- g. The flow meter equipment shall be capable of setting alarm thresholds allowing the user to set various alarm settings notifying City staff via email or cell service when an alarm is triggered.
- h. The flow meter equipment shall log all service, maintenance, and calibration activity. The log file shall provide date of each log entry with twenty-four (24) hour time of day stamp. The log file shall include meter stop and re-start times and battery power levels. The log files shall be available for viewing by City staff at all times via website.

#### Task 3: Installation/Replacement

- a. Prior to installation or replacement, the Company shall inspect each flow metering location to determine hydraulic suitability. This may require entry into the manhole (confined space entry) to ensure adequate inspection. The Company may recommend relocating the metering site to a more favorable hydraulic site upstream or downstream of the existing metering site, provided the feeding basin remains the same. No weir or flume devices are allowed.
- b. The Company is responsible for obtaining all permits required for the installation, replacement, operation, and maintenance of the flow meter equipment from Federal, State, and Local Agencies. The Company shall comply with Federal, State and Local Agency requirements for traffic control required during the installation, replacement, operation, and maintenance of the flow meter equipment.
- c. Within fifteen (15) days after notice to proceed, the Company shall submit an Installation/Replacement Plan, Schedule, and Calibration Procedure. The plan shall include a list of flow meter equipment type(s) proposed for installation or replacement at each site. The list shall include make and model of the flow meter equipment. The City may modify the installation or replacement schedule and/or specify time of day for installation or replacement of certain flow metering sites. All installations or replacements are to be completed within 90 days. The field Calibration Procedure shall demonstrate that the flow meter equipment measures depth and area velocity to within the required accuracy identified in Task 5 Section E.
- d. A Site Installation or Replacement Report shall be available for viewing on the website within seven (7) days of flow meter installation or replacement. Site documentation shall include all pertinent installation or replacement information such as flow meter site location map, site name given by the City, date of installation or replacement, flow meter information, calibration information, manhole configuration, layout of all meter sensors, and photos of the flow meter installation or replacement for each site.
- e. There is one existing meter site not under the jurisdiction of the City. Site Durango\_21 is located within the Clark County Water Reclamation District sewer collection system. The City has approval for the metering site.

#### Task 4: Website and Training

- a. The Company shall provide a website with access to a secure password protected server for the purpose of this project requiring only Microsoft Edge or Google Chrome, and full compatibility with City IT Department policies.
- b. The website shall supply viewable and downloadable raw, processed, and final data from all meter sites in graphical and tabular formats. The formats shall include user defined and summary (daily, weekly, monthly, yearly, etc) intervals. The data available for graphs and reports must include, but is not limited to, level for all depth sensors, velocity for all velocity sensors, and calculated flow rates. Graphical formats shall include scattergraphs and hydrographs. The website shall provide for and track minor data edits without deleting original data. All downloadable data shall be compatible with Windows based software such as Microsoft Excel for the data reports and Microsoft Word programs for the log files.
- c. The website shall allow users to generate reports, charts, graphs etc. within the website, without the user having to import the data to a separate program or software.
- d. The website shall allow users to view and report on raw, unedited, non-processed data collected directly from the flow meter and prepare monthly sensor uptime reports.

- e. The website shall allow users to view all log files for each meter site as well as all Site Installation and Calibration Reports.
- f. The Company shall provide training in the use of the website necessary for viewing, downloading, and generating reports and graphs of data collected by the flow meter equipment. The Company is required to submit a schedule and outline for the training.
- g. The Company shall provide all the necessary licenses required (if any) to use the website at no cost to the City. Licenses for Microsoft Office (ie. Excel or Word) programs are not required to be provided by the contractor, unless required for specific use of the website.
- h. The website shall include an interactive map showing the locations of all flow meter sites with a point and click function providing a quick view of the most currently available data. The point and click feature shall also provide an option to download data and view log files for the selected meter site. The interactive map shall have all meter sites color coded to display on-line and off-line meters as well as a low battery indicator.
- i. The Company shall provide live technical support via the internet or telephone during regular business hours.

**Task 5: Service and Maintenance**

- a. The Company shall provide a dedicated Project Manager and a dedicated Field Manager for activities associated with the scope of this work and shall submit the Project Manager and Field Manager resumes. The resumes shall list experience, qualifications, and certifications required to complete the tasks associated with this project. The Company shall provide the names and qualifications of Certified Maintenance Personnel that will be installing, calibrating, and maintaining the flow meter equipment.
- b. The Project Manager shall manage the overall project scope, budget, and schedule, and shall be the single point of contact for all project issues. The Project Manager will oversee the Field Manager, data analysis, data management, and other associated field work.
- c. The Field Manager shall oversee the scheduling and work efforts of the Certified Maintenance Personnel. The Field Manager shall also maintain records of all field activities (e.g. calibrations, site investigations, installations, repairs and/or replacement). All activity records shall be made available for viewing on the website. The Field Manager shall be the single point of contact for field related issues.
- d. Flow data shall be recorded in fifteen (15) minute intervals and uploaded to the contractor provided server at a minimum twenty four (24) hour intervals.
- e. The Company shall operate and maintain flow measurement equipment to guarantee that flow data from each site is reliable, consistent, and useful at a minimum 90% of the time (uptime). The guarantee shall also apply to raw depth, processed depth and final depth and flow quantity data for each site. A minimum of one (1) depth sensor shall be operational 90% of the time in order for the flow meter equipment to meet the uptime requirements. Manufactured depth data to fill in missing data points shall not be considered when calculating the flow meters uptime. All metering sites shall achieve a minimum 90% uptime individually and no site shall be down for more than 72 hours. Any site that does not meet the 90% uptime shall not be billed or is down for 72 hours or more shall not be billed in that billing cycle.
- f. The Company shall implement a Calibration Procedure to document and maintain accurate readings to within 5% of actual flow and provide 90% operational uptime for each flow meter site. Flow meter equipment shall be field calibrated at intervals necessary to provide minimum uptime and evaluation requirements, but at a minimum, every six (6) months. Calibrations shall be performed by Certified Maintenance Personnel for the specific model being calibrated. The City reserves the right to observe the calibration work used to maintain the flow meter equipment. The Company shall coordinate the observations of the calibration work with City staff upon written or oral request.

- g. The Company shall monitor the data being transmitted from the flow meter equipment and shall carry out a diagnostic inspection of the data on a daily basis to ensure all flow meter sites are online and the data is reliable and consistent. Any flow meter equipment that is non-operational shall be corrected within 72 hours.
- h. The Company will make every effort to ensure that each flow monitoring site will not cause a line stoppage for the duration of the project.
- i. Historical flow data may be provided by the City. Historical data shall be uploaded to the website and provide the same viewing and reporting capabilities as flow data obtained from the project flow meter equipment.
- j. At the end of the contract year(s), the Company shall provide all flow data and log files collected during the entire contract period on an external USB hard drive.
- k. All documents and data provided and collected in accordance with this contract is the sole property of the City of Las Vegas and shall not be used for any purpose by any person(s) other than the City. The City may grant expressed written consent for use of the data upon request, and may grant external users access the data via website.
- l. The City of Las Vegas reserves the right to add or relocate any site upon written request. Additional sites requested by the City would be at the same per site cost and subject to the same terms agreed upon with this contract.
- m. The Company is responsible for removal of all flow meter equipment within thirty (30) days after the end of the contract, and shall be responsible for returning each site to its original condition after removal of equipment, including repairing any damage as a result of flow metering activities.

#### Task 6: Supplemental Services

The Company shall provide additional services that may be required during completion of the work but not included under the Basic Services of this Agreement. Prior to beginning work on any Supplemental Services task, Company shall prepare and obtain written authorization from the City for the scope of work, negotiated fee based on established rates, and time of performance for each task. Supplemental Services may include, but are not limited to:

- Additional permanent flow monitoring installations with associated services
- Temporary flow monitoring studies

**EXHIBIT B – PRICING / FIXED FEES**

(a) The City will pay the Company the following amounts, which shall include all incidental expenses:

Item	Description	Initial Term Price Yr 1 & 2 (8/1/21-7/31/23)	Extension Period 1 Price Yr 3 (8/1/23-7/31/24)	Extension Period 2 Price Yr 4 (8/1/24-7/31/25)	Extension Period 3 Price Yr 5 (8/1/25-7/31/26)
1	Flow Meter Replacement of 31 meters (listed in Exhibit B)	No charge	No charge	No charge	No charge
2	Monthly maintenance, data processing, on-line data reporting, including labor to maintain 90% raw depth and final data uptime, equipment and spare parts to maintain 90% uptime, software, data review, analysis and finalization and monthly wireless fees	\$650/meter/month	\$663/meter/month	\$676/meter/month	\$690/meter/month
3	Meter removal & reinstallation (same location with 2-week notice)	\$1,100/site	\$1,100/site	\$1,100/site	\$1,100/site
4	Temporary Monitoring (1 week for 1-5 meters)	\$3,200/meter	\$3,200/meter	\$3,200/meter	\$3,200/meter
5	Temporary Monitoring – weekly extensions (up to 1 month)	\$1,200/meter/week	\$1,200/meter/week	\$1,200/meter/week	\$1,200/meter/week
6	Emergency removal and installation (same location with 48-hour notice)	\$1,500/site	\$1,500/site	\$1,500/site	\$1,500/site
7	Installation of flow meter at a new site, including permit fee; Company shall comply with all applicable provisions of Exhibit A - Scope of Work. Meters installed shall only be "ADS Triton +" and/or City approved equal, and be in accordance with Exhibit A - Scope of Work, Task 2: Flow Meter Equipment	\$2,000/meter	\$2,000/meter	\$2,000/meter	\$2,000/meter

- (b) **TOTAL CONTRACT AMOUNT:** Contract amount shall not-to-exceed **\$263,000 annually**; which does include emergency removal and installation costs or temporary monitoring.
- (c) **MONTHLY MAINTENANCE:** The Company will invoice the City for monthly monitoring services and the City will reimburse Company up to **\$20,150 per month for years 1 and 2, with a 2% U.S Bureau of Labor Statistics Consumer Price Index (CPI) increase for years 3-5, with a not to exceed 21,390 per month for year 5 as indicated in Exhibit B listed above**, if uptime requirements are met. The Company will invoice the City monthly by the 10<sup>th</sup> of each month, for the previous month. When the City requests that a meter be moved, the Company will be allowed to pro-rate the monthly rate (meter uptime requirements will not apply to this situation).
- (d) **ADDITIONAL SERVICES:** In the event emergency removal and installation services are required, payment for additional services will be at the rates established in Exhibit B – listed above, and will be in addition to the monthly maintenance fee, not-to-exceed **\$21,200 annually for year 1 and year 2; and decrease each year to match the difference between the Monthly maintenance and the Total Contract Amount for a total Not-to-Exceed \$6,320 for Year 5** for additional services.



**ATTACHMENT 1 - CERTIFICATE - DISCLOSURE OF OWNERSHIP AND /PRINCIPALS**

**1. Definitions**

“City” means the City of Las Vegas.

“City Council” means the governing body of the City of Las Vegas.

“Contracting Entity,” means the individual, partnership, or corporation seeking to enter into a contract with the City of Las Vegas.

“Principal” means, for each type of business organization, the following: (a) sole proprietorship – the owner of the business; (b) corporation – the directors and officers of the corporation; but not any branch managers of offices which are a part of the corporation; (c) partnership – the general partner and limited partners; (d) limited liability company – the managing member as well as all the other members; (e) trust – the trustee and beneficiaries.

**2. Policy**

In accordance with Resolutions 79-99, 105-99 and RA-4-99, adopted by the City Council, Contracting Entities seeking to enter into certain contracts with the City of Las Vegas must disclose information regarding ownership interests and principals. Such disclosure generally is required in conjunction with a Request for Proposals (RFP). In other cases, such disclosure must be made prior to the execution of a contract.

**3. Instructions**

The disclosure required by the Resolutions referenced above shall be made through the completion of this Certificate. The Contracting Entity shall complete Block 1, Block 2, and Block 3. The Contracting Entity shall complete either Block 4 or its alternate in Block 5. Specific information, which must be provided, is highlighted.

**4. Incorporation**

An updated and notarized Certificate shall be incorporated into the resulting contract, if any, between the City and the Contracting entity. Upon execution of such contract, the Contracting Entity is under a continuing obligation to notify the City in writing of any material changes to the information in this Certificate. This notification shall be made within fifteen (15) days of the change. Failure to notify the City of any material change may result, at the option of the City, in a default termination (in whole or in part) of the contract, and/or a withholding of payments due the Contracting Entity.

<b>Block 1: Contracting Entity</b>	
Name: ADS LLC	
Address: 340 THE BRIDGE STREET, SUITE 204	City / ST / Zip: Huntsville, AL 35806
Telephone: 256-430-3366	EIN or DUNS : 80-0355 805
<b>Block 2: Description / Subject Matter of Contract</b>	
Services for: Flow Monitoring for Sewer Collection System – Sanitary Sewer	Project Number: 210237-JH

<b>Block 3: <u>Type of Business</u></b>
<input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input checked="" type="checkbox"/> Limited Liability Company <input type="checkbox"/> Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Other:

**CERTIFICATE - DISCLOSURE OF OWNERSHIP AND /PRINCIPALS (CONTINUED)**

**Block 4: Disclosure of Ownership and Principals**

In the space below, the Contracting Entity must disclose all principals (including partners) of the Contracting Entity, as well as persons or entities holding more than one-percent (1%) ownership interest in the Contracting Entity.

	FULL NAME/TITLE	BUSINESS ADDRESS	BUSINESS PHONE
1	IDEX Corporation	3100 Sanders Road Suite 301 Northbrook, IL 60062	(847) 498-7070
2			
3			
4			
5			
6			
7			
8			
9			
10			

The Contracting Entity shall continue the above list on a sheet of paper entitled "Disclosure of Ownership and /Principals – Continuation" until full and complete disclosure is made. If continuation sheets are attached, please indicate the number of sheets: \_\_\_\_\_

**Block 5: Disclosure of Ownership and Principals – Alternate**

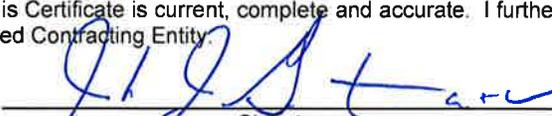
If the Contracting Entity, or its principals or partners, are required to provide disclosure (of persons or entities holding an ownership interest) under federal law (such as disclosure required by the Securities and Exchange Commission or the Employee Retirement Income Act), a copy of such disclosure may be attached to this Certificate in lieu of providing the information set forth in Block 4 above. A description of such disclosure documents must be included below.

Name of Attached Document: \_\_\_\_\_

Date of Attached Document: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

**Contracting Party Certification (Notarized signature required in event of contract award per section 4, "Incorporation")**

I certify under penalty of perjury, that all the information provided in this Certificate is current, complete and accurate. I further certify that I am an individual authorized to contractually bind the above named Contracting Entity.

  
 \_\_\_\_\_  
 Signature  
 6/30/2021  
 \_\_\_\_\_  
 Date

Subscribed and sworn to before me this 30th day of June, 2021

Katherine Lynn McAuley  
 Notary Signature

