

## **MATERIAL TESTING AND SPECIAL INSPECTION SERVICES CONTRACT**

### **FOR**

### **GRAND TETON DRIVE OVERPASS - TEE PEE LANE TO EL CAPITAN WAY**

THIS PRIME DESIGN SERVICES CONTRACT (this "Contract") is made and entered into by and between the CITY OF LAS VEGAS, a municipal corporation within the State of Nevada (the "City") whose address is 495 S. Main Street, Las Vegas, Nevada 89101, and **NINYO & MOORE GEOTECHNICAL AND ENVIRONMENTAL SCIENCES CONSULTANTS** (the "Consultant"), a CORPORATION, whose address is **6700 PARADISE ROAD, SUITE E, LAS VEGAS, NV 89119**.

This Contract is effective on the date signed by the City and Consultant, whichever date is later, as long as the date signed by the second party is within sixty (60) calendar days of signature by the first party (the "Effective Date").

#### **PROJECT DESCRIPTION:**

Includes bridge, roadway, and utility construction on the Grand Teton Overpass. These improvements will consist of, but are not limited to: a conventional reinforced concrete bridge, mechanically stabilized earth retaining walls, grading, asphaltic concrete pavement, striping, storm drain, utility relocations, ITS, street light, multi-use trail, and any and all ancillary items.

#### **RECITALS**

WHEREAS, the City intends to construct the GRAND TETON DRIVE OVERPASS - TEE PEE LANE TO EL CAPITAN WAY (the "Project"); and

WHEREAS, the City desires to retain the Consultant who will be responsible for providing the professional services more fully described herein and in the exhibits attached hereto; and

WHEREAS, the Consultant is properly licensed pursuant to NRS Chapter 623, 623A, or 625, whichever is legally required for the services to be provided within the State of Nevada, and if applicable to the Consultant's business organization, is in compliance with NRS 623.349 for architects, interior designers, and residential designers and NRS 623A.250 for landscape architects, which requires the Consultant to control and have no less than two-thirds ownership of the business organization or association be held by persons registered or licensed in the State of Nevada pursuant to NRS Chapters 623, 623A, or 625, and possesses the knowledge, skills and experience to perform the services hereinafter set forth within the time required under this Contract

NOW, THEREFORE, in consideration of the above premises, the parties hereto agree to the following terms, conditions and covenants set forth herein:

#### **ARTICLE 1**

#### **CONSULTANT RESPONSIBILITIES**

**1.1 Description of Consultant's Services.** For the compensation set forth in Section 7, the Consultant hereby agrees to perform the basic services set forth in the Scope of Services, Exhibit "A" attached hereto and incorporated herein as a part of this Contract and, if so requested, the additional services set forth in the Compensation, Exhibit "E" attached hereto and incorporated herein as a part of this Contract and to provide the submittals described in the Required Submittals Exhibit "B," attached hereto.

**1.2 Performance Standards.** In performing the services set forth in this Contract, the Consultant shall follow the practices consistent with the generally accepted standards in the profession of the services being provided to the City pursuant to this Contract.

**1.3 Document Review.**

A. The Consultant shall review each document prepared by the Consultant and its subconsultants including, without limitation, the plans, specifications, cost estimates, and other required submittals for conformance with quality control requirements, Project standards and applicable federal, state and local laws and other regulations. Consultant shall also review each document for violations or infringements upon any patent rights.

B. The Consultant's failure to comply with the quality assurance and quality control provisions of Exhibit A - Scope of Services, to adequately review documents prior to submittal or to address City comments prior to resubmittal will be considered an Event of Default pursuant to Section 10.3.

**1.4 Waiver.** The City's approval of any documents or services furnished by the Consultant shall not in any way relieve the Consultant of responsibility for the professional and technical accuracy of its documents or services. The City's review, approval, acceptance or payment for any of the Consultant's services shall not be construed to operate as a waiver of any rights enjoyed by the City under this Contract or of any cause of action arising out of the performance of this Contract. The Consultant shall remain liable for any damages to the City caused by the Consultant's negligent act or omission committed in the performance of this Contract.

#### **1.5 Designation of Consultant's Representative.**

A. The Consultant's representative is the individual identified in the Key Personnel List, Exhibit "F" attached hereto (the "Consultant Representative") to act in that capacity, who shall be responsible for the services required under this Contract. The services specified by this Contract shall be performed by the personnel identified in the Key Personnel List provided that such associates and employees perform under the personal supervision of the Consultant Representative.

B. If any person or subconsultant who is expected to provide any of the services required under this Contract is objectionable to the City for any reason, the Consultant shall, without additional compensation, replace such person or subconsultant with someone acceptable to the City.

C. If the Consultant's personnel are unable to complete their responsibilities for any reason under this Contract, or the Consultant desires for any reason to substitute personnel assigned to the Project, the Consultant agrees to obtain the approval of the City for the substitution. The City shall not unreasonably deny approval unless the City adjudges the substitution to not be in the interest of the City or the Project.

D. If the Consultant fails to make an acceptable replacement within thirty (30) days, the City may terminate this Contract for default as provided in Section 10.3 of this Contract.

**1.6 Correspondence Review.** The Consultant shall furnish the City Representative draft copies of each correspondence to be sent to any contractor involved with the Project, and to any regulatory agencies, for approval and review prior to mailing such correspondence.

**1.7 Cooperation with the City.** The Consultant agrees that its officers, associates, employees and subconsultants will cooperate with the City in providing the services under this Contract and will be, with advance notice, available for consultation with the City at such reasonable times as to not conflict with the City's other responsibilities.

#### **1.8 Responsibility for Construction Document Revisions**

A. **Applicability.** The Consultant's responsibility described in this Section applies only if the Consultant is responsible for providing a construction cost estimate and preparing construction documents for the Project.

B. **Responsibility for Revisions.** The Consultant does not warrant or represent that the bids or proposed price received by the City to construct the Project will come within the estimate prepared by the Consultant. If the bids or proposed price received by the City exceeds the Consultant's estimate, the Consultant agrees to cooperate with the City in revising the requirements of the Project as required to lower the cost and to change the construction documents. If the changes requested by the City cause an increase in the cost or time required to perform any of the services required under this Contract, the Consultant may submit a request for an Adjustment in Compensation pursuant to Section 3.1.

## ARTICLE 2 CITY RESPONSIBILITIES

**2.1 City Representative.** The Director of Public Works or his authorized representative identified in the Key Personnel List is hereby designated as the City's representative (the "City Representative") with respect to this Contract. The City Representative shall have complete authority to transmit instructions, receive information, interpret and define the City's policies and decisions with respect to the services of the Consultant. The City Representative is not authorized to change or waive any of the provisions set forth in Sections 1.0 through 10.24 of this Contract.

**2.2 Review of Consultant's Services and Documents.** The services to be performed by the Consultant shall be subject to periodic review by the City Representative. To prevent an unreasonable delay in the Project, the City Representative will endeavor to examine and comment in writing on the documents furnished by the Consultant including, without limitation, the plans, drawings, specifications, test results, evaluations, and reports within twenty-one (21) days of receipt of such documents, unless the Contract provides for a different review time with respect to the document.

**2.3 Access to Records.** The City shall, without charge, furnish a copy to, or make available for examination or use by, the Consultant, as it may request, any documents and data which the City has available including, without limitation, reports, maps, plans, specifications, surveys, records, ordinances, codes, regulations, and other documents related to the services required under this Contract. The City shall assist the Consultant in obtaining data and documents from public agencies and from private citizens and business firms whenever the City determines that such material is necessary for the completion of the services required by this Contract.

**2.4 Cooperation with Consultant.** The City agrees that its officers and employees will cooperate with the Consultant in the performance of this Contract and will be, with advance notice, available for consultation with the Consultant at such reasonable times as to not conflict with the Consultant's other responsibilities. The City shall provide access to the Consultant on to the Project site as may be required to perform the services under this Contract.

## ARTICLE 3 CHANGES TO CONSULTANT'S SERVICES

**3.1 Requested Changes.** The City may at any time, by written order of the City Representative, make a change in the services to be performed by the Consultant under this Contract.

**3.2 Adjustment of Compensation.** If the change requested by the City causes an increase or decrease in the cost or time required to perform any of the services required under this Contract, an equitable adjustment shall be made in the compensation to be paid to the Consultant under Section 7, or in the performance schedule under Section 8, or both, and this Contract shall be modified in writing accordingly. Each claim for adjustment under this Section must be asserted in writing within thirty (30) days from the date of receipt by the Consultant of written notification of the change, unless the City grants in writing an extension. Provided proper notice has been given to the City as required herein, the claim for an adjustment shall be handled pursuant to the provisions of 10.20.2 and 10.20.3 of this Contract. The failure to provide notification of the claim within the time required herein shall constitute a waiver of the right to seek any equitable or legal adjustment in compensation with respect to that change.

## ARTICLE 4 ADDITIONAL SERVICES OF CONSULTANT

### 4.1 Additional Services.

A. The Consultant shall provide the additional services described in the Additional Compensation if, and only if, so requested in writing by the City. Payment for the additional services will be made to the Consultant in accordance with Section 7 of this Contract.

B. Attendance at Meetings or Public Hearings. The Consultant shall notify the City in advance of any estimated additional

costs that may be incurred prior to attending any meetings or public hearings as may be necessary in connection with the services performed by the Consultant under this Contract.

## **ARTICLE 5 SUBCONSULTANT CONTRACT**

**5.1 Subconsultant Provisions.** If, with the approval of the City as required pursuant to Section 10.7, the Consultant enters into an Contract with a subconsultant for the performance of any of its obligations under this Contract, the Consultant agrees to include in each subconsultant Contract a provision that: 1) the Consultant agrees to pay the subconsultant when paid by the City for that portion of the services provided to the City and that no liability arises on the part of the Consultant for payment of the subconsultant services until payment has been made by the City. If the City has paid the Consultant for the subconsultant services, the subconsultant's only recourse is against the Consultant and not against the City, either through the institution of legal or equitable action or the attachment of any lien; and 2) the subconsultant shall have no more rights against the City than that of the Consultant; and 3) the subconsultant agrees to be bound by the terms, conditions and obligation of this Contract unless the City has approved any deviation, change or modification in writing; and unless otherwise approved in writing by the City Representative, the subconsultant shall obtain and maintain professional liability insurance (Errors and Omissions coverage) in connection with the subconsultant services in an amount equal to that required of the Consultant in this Contract.

## **ARTICLE 6 TERM OF CONTRACT**

### **6.1 Term.**

A. This Contract shall commence on the day it is approved by the City (which date shall be inserted in the introductory paragraph of this Contract) and shall remain in force and effect for two (2) years from the date of approval unless terminated earlier pursuant to Section 10.2 or 10.3 of this Contract. Such termination shall not release either party from any of its continuing obligations under this Contract. The City reserves the right to exercise an option to temporarily extend this Contract for up to thirty (30) calendar days from the expiration date, for any reason.

B. Disputes. This Section shall not be construed to preclude the filing of any dispute arising out of the performance of this Contract or in connection with the subject matter hereof, nor shall this Section be construed to change the date or the time on which a cause of action arising out of the performance of this Contract or in connection with the subject matter hereof, would otherwise accrue under the statutes of limitation or doctrines of law.

## **ARTICLE 7 COMPENSATION AND TERMS OF PAYMENT**

### **7.1 COMPENSATION AND TERMS OF PAYMENT**

A. Compensation: Basic Services.

1. For the services to be performed by the Consultant under this Contract and set forth in the Scope of Services, the City agrees to pay the Consultant on the basis of Consultant's direct salary, times a Multiplier, as defined in Section 7.2 plus City approved reimbursable expenses identified in Section 7.D. In no event shall the fee exceed the fee identified in the Fee Breakdown, Exhibit "D" and direct salary rates, Exhibit "E," attached hereto, pursuant to invoices submitted in accordance with Section 7.E of this Contract.

B. Multiplier.

1. Exhibit D, Section 402.1, provides the multiplier established for this contract. The multiplier includes costs associated with, but not limited to: overhead, general and administrative costs, profit, vehicles, printing, and travel, unless directly identified as reimbursable per Contract Section 7.D and Exhibit E. Documentation used to establish this multiplier is considered part of the project records and shall be maintained in accordance with Section 9.1.

C. Compensation: Additional Services.

1. For any services not set forth in the Scope of Services, the City shall pay to the Consultant on the basis of Consultant's direct salary, times the multiplier set forth in Exhibit D in accordance with Exhibit E, provided prior written approval for such services is given by the City Representative.

D. Compensation: Reimbursable Expenses.

1. Direct reimbursable expenses incurred by the Consultant for work performed under this Contract eligible for reimbursement include subconsultant or subcontractor services (provided the Owner has authorized, in writing, said services) and additional line items specified in Exhibit E. The Consultant agrees that all of its authorized reimbursable expenses associated with the performance of this Contract shall be billed at the actual cost incurred by the Consultant without mark-up of any kind.

E. Payment Invoicing.

1. The Consultant shall submit a monthly invoice for payment for the services provided by the Consultant based on the manner or method of payment set forth in Exhibit A (Scope of Services) Section 101 (Preliminary and General Items) and Exhibit D (Fee Breakdown). Invoices shall provide sufficient detail to document the Contract work performed.

2. If The City Representative approves the submitted invoice in full, the Consultant can expect payment within a period of (60) days from the date of receipt by the City. If payment has not been received within the sixty (60) days, the Consultant agrees to contact the City Representative to resolve the problem causing the delay.

3. Right to Offset.

a. If the City's representative, in his or her reasonable discretion, objects to all or any portion of an invoice, the City Representative shall provide written notice to the Consultant no later than fourteen (14) days after the City's receipt of said invoice. The Consultant may dispute the City Representative's objection by providing written notice to the City within fourteen (14) days after receipt of the City's written objection. Thereafter, The City Representative shall provide a written response to the Consultant within seven (7) days of receipt of the Consultant's written dispute notice. If the Consultant disputes the City Representative's determination, the Consultant may file a claim pursuant to Section 10.20 of this contract.

b. Should the City's damages, costs or expenses arising out of the negligence act or errors and omissions of the Consultant exceed the invoice amount, the City reserves all rights and remedies under law and equity to recover any damages, costs or expenses arising out of the negligence acts or errors and omissions of the Consultant.

F. Final Payment

1. Upon completion of the services required under this Contract, and acceptance thereof by the City (which acceptance will not be unreasonably withheld), the Consultant will, within sixty (60) days of the City's acceptance, be paid the balance of any money due for such services.

## ARTICLE 8 PERFORMANCE SCHEDULE

**8.1 Performance Schedule.** The Consultant shall perform and complete the services required under this Contract according to the schedule (the "Performance Schedule") set forth in the Schedule of Performance, Exhibit "C" attached hereto. If the performance of services is delayed or submittals are not delivered in the time period as outlined in the Performance Schedule, the Consultant shall notify the City Representative in writing of the reasons for the delay and include a plan which brings the Consultant's performance into compliance with the Performance Schedule. Failure to notify the City of potential delays or failure to meet schedule requirements due to Consultant performance issues may be considered an Event of Default pursuant to Section 10.3.

## ARTICLE 9 AUDIT: ACCESS TO RECORDS

**9.1 Records.** The City shall have the right to audit the Consultant's books, records and other documents directly pertinent to the performance of this Contract. The Consultant agrees to maintain books, records and other documents directly pertinent to performance of this Contract in accordance with generally accepted accounting principles and practices. The Consultant shall also maintain the financial information and data used to prepare or support the invoices submitted to the City. Audits conducted pursuant to this provision shall be in accordance with generally accepted auditing standards, procedures and guidelines of the City, or its designated representative. The City, or its duly authorized representatives, shall have access to such books, records, and documents for the purpose of inspection, audit and copying. The Consultant will provide proper facilities for such access and inspection.

**9.2 Disclosure.** The Consultant shall be afforded the opportunity for an audit entrance and exit conference and an opportunity to comment and submit any supporting documentation on the pertinent portions of the draft audit report, and that the final audit report will include the written comments, if any, of the Consultant.

**9.3 Period of Maintenance.** The books, records and other documents under Sections 9.1 and 9.2 of this Contract shall be maintained for six (6) years after the date of the final payment for the services under this Contract. In addition, those records and other documents which relate to any arbitration, litigation or the settlement of any claim arising out of this Contract, or to which an audit exception has been taken, shall be maintained and made available until three (3) years after the date that the arbitration, litigation or exception has been resolved.

**9.4 Subcontract Provisions.** The Consultant agrees to include Sections 9.1 through 9.3 of this Contract in all its subcontracts directly related to performance of services specified in this Contract which are in excess of \$10,000.

## ARTICLE 10 MISCELLANEOUS PROVISIONS

**10.1 Suspension.** The City may suspend, without cause, the performance by the Consultant under this Contract for such period of time as the City, in its sole discretion, may prescribe by providing written notice to the Consultant. The suspension shall be effective as of the date set forth in the written notice. With such suspension, the City agrees to pay to the Consultant the amount of compensation, based on work performed and accepted by the City, earned as of the effective date of suspension less all previous payments. The Consultant shall not provide any further services under this Contract after the effective date of suspension until otherwise notified in writing by the City. In no event shall the City be liable to the Consultant for services in excess of the actual hourly wages or reimbursable costs directly related to execution of the Contract at the time of suspension.

If, after notice to resume performance has been given by the City, the suspension was for a period in excess of ninety (90) days, which has resulted in an increase in the performance of this Contract to the Consultant and 1) the Consultant was not a contributing cause for the suspension; and 2) the Consultant has not received an equitable adjustment under another provision of this Contract; and 3) the Consultant could not mitigate the increase in the performance cost, then the Consultant's fee shall be reviewed by the City and, if justified, equitably adjusted to provide for any additional expenses resulting from the suspension.

**10.2 Termination for Convenience.** The City reserves the right to terminate this Contract without cause or default on the part of the Consultant with ten (10) days' prior written notification to the Consultant served pursuant to Section 10.18 of this Contract. In the event of termination, without cause or default, the City agrees to pay to the Consultant the reasonable value for the services performed as of the date that notification of termination is received by the Consultant. In no event shall the City be liable to the Consultant for services in excess of the percentage completed at the time of termination.

### 10.3 Termination for Cause or Other Resolution.

#### A. Event of Default

1. If, during the term of this Contract, the Consultant (i) fails to deliver services that comply with the Scope of Services, including failure to comply with quality assurance and quality control provisions, (ii) fails to deliver the services

within the time specified in the Contract 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 Consultant, or if any proceeding in bankruptcy, receivership, or liquidation is instituted against the Consultant 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.

2. If there occurs an Event of Default, the Consultant 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 Consultant 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 cure 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 10.3.B "City's Rights", below.

B City's Rights. Upon the occurrence of an Event of Default, and without prejudice to any other right or remedy it may have at law or equity, the City may a) terminate this Contract, suspend payment of all pending invoices otherwise due to the Consultant hereunder, and finish this Contract by such means as deemed appropriate by the City, reserving the right to deduct from any balance due Consultant any additional cost for completing this Contract. In the event the reasonable cost of finishing the Consultant's performance of this Contract exceeds the balance due the Consultant, the excess shall be paid by the Consultant to the City within thirty (30) days of invoicing by the City; or b) terminate this Contract, and the obligations imposed hereunder, including the obligation of any further payment for the services of the Consultant except for the reasonable value for the services performed to the date of termination; or c) continue with performance by the Consultant and serve within a reasonable time after completion of the Contract a notice of claim or dispute pursuant to the procedure set forth in Section 10.20.

#### 10.4 Documents.

##### A. Ownership.

1. The Consultant agrees that all documents of any kind whatsoever, and in whatever medium expressed, prepared by the Consultant and the Consultant's subconsultants in connection with the Project or otherwise pursuant to this Contract (collectively, the "Documents") and all rights therein (including without limitation trademarks, trade names, rights or use and reuse, copyrights and/or all other proprietary rights) shall be and remain the sole property of the City (regardless of whether the City or Consultant terminates this Contract for any reason whatsoever). The Consultant hereby agrees that the Documents are or shall be deemed to be "Works for Hire" within the meaning of Section 101 of the Copyright Act, and the Consultant hereby assigns to the City all right, title, and interest therein. If for any reason the Documents should not be considered a "Work for Hire" under applicable law by a court or other tribunal of competent jurisdiction, then it is mutually agreed that that under this Section 10.D, the Consultant shall hereby be deemed to have transferred to the City, its successors and assigns, the Consultant's entire right, title and interest in and to the Documents and the legal rights therein including, but not limited to, copyright included therein.

2. The Consultant further agrees that neither it nor any of its employees shall exercise any of the rights embodied in the copyrights in or to such Documents, unless authorized to do so by the City under the terms of a separate written Contract executed by the Consultant and the City. The Consultant shall place a conspicuous notation upon each such Document that indicates that the copyright thereto is owned by the City.

3. City agrees to waive any and all claims against the Consultant and to defend, indemnify, and hold the Consultant harmless from and against any and all claims, losses, liabilities and damages arising out of or resulting from the City's use, reuse, or alteration by any new consultant or other agent of the City, of the Documents. The Consultant shall be entitled to retain a reproducible copy of the Documents furnished to the City; however, the Consultant shall not sell, license, or otherwise market the Documents in any way.

B. Delivery of Documents.

1. In the event of the completion of this Contract and upon the City's payment in the services rendered by the Consultant, the City shall have the right to require delivery of any and all of the plans, drawings, specifications, and all other documents (including, without limitation, design concepts and sketches, test results, evaluations, reports and studies), including the magnetic or electronic media of the aforementioned documents, not in the possession of the City.

2. In the event of the suspension or termination of this Contract, the Consultant shall have the right to invoice the City to request full payment for all services performed or furnished in accordance with this Contract through the suspension or termination date. Any dispute regarding the amount of any payment to be made by the City under this Contract shall not diminish, restrict or limit the right of the City to promptly receive delivery of any and all plans, drawings, specification, and all other documents (including without limitation, design concepts and sketches, test results, evaluations, reports and studies), including the magnetic or electronic media of the aforementioned documents, not in possession of the City. The Consultant may file a claim pursuant to Section 10.20 of this Contract for any disputed payment claims.

C. Confidentiality. The plans, drawings, specifications and other documents (including, without limitation, design concepts and sketches, test results, evaluations, reports and studies) (including the magnetic or electronic media of the aforementioned documents) which are prepared or assembled by the Consultant, or its subconsultants, under this Contract shall not be made available to any individual or organization without the prior written consent of the City. Except for marketing pamphlets and submittals to clients, the Consultant shall not publish, submit for publication, or publicly display the Project without the written consent of the City. The obligations of confidentiality shall survive the termination of this Contract.

D. Contractual Rights. Notwithstanding the provisions of 10.4 A above, the City is hereby licensed to use all design concepts developed by the Consultant and subconsultants under this Contract, including the right to construct derivative works of the Project and to use the design concepts for other projects of the City. Provided, that however, none of the documents or materials are intended or represented by Consultant to be suitable for reuse by the City, or others on extension of the project or on any other project. Any reuse without written verification or adaptation by Consultant for the specific purpose intended will be at City's sole risk and without liability or legal exposure to Consultant. The City agrees to indemnify, defend, and hold harmless Consultant for any claims related to the City's or City's authorized use of the design concepts developed by the Consultant. The design concepts include, but are not limited to, the form, aesthetic appeal, site layout, arrangement, and composition of spaces and elements, the use of colors and materials, system designs, construction methods, and interior design.

**10.5 Insurance.** The Consultant shall procure and maintain, at its own expense, during the entire term of the Contract, the following coverage(s):

A. Industrial/Workers' Compensation Insurance protecting the Consultant and the City from potential Consultant 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 Consultant is a sole proprietor, it will be required to submit an affidavit indicating that the Consultant 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 Consultant's Workers' Compensation policy shall have a waiver of subrogation endorsement in favor of the City of Las Vegas.

B. Commercial General Liability Insurance (bodily injury, property damage) with respect to the Consultant's agents assigned to the activities performed under this Contract in a policy limit of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$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 Consultant'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.

C. Commercial Automobile Liability Insurance of limits no less than One Million Dollars (\$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 Consultant and any auto used in the



performance of services under this Contract. The policy must insure all vehicles owned by the Consultant 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 Consultant'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.

D. Professional Liability Insurance (Errors and Omissions Coverage). This insurance shall protect the Consultant 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 for the period of time covered by this Contract.

E. The Consultant must provide compliant certificates of insurance and required endorsements to the City or its designated certificate tracking service immediately upon request. The Consultant shall maintain coverage for the duration of this Contract, and any renewal periods if applicable. The Consultant 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 its designated certificate tracking service if so requested.

F. 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 Consultant and/or insurance carrier shall provide the City with 30-day advance notice policy cancellation, sent by certified mail "return receipt requested".

G. 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 Consultant, including the rating and financial health of each insurance carrier providing coverage, is subject to the approval of the City.

H. All deductibles and self-insurance retentions shall be fully disclosed in the certificate of insurance. No deductible or self-insured retention (with the exception of professional Liability Insurance) may exceed Fifty Thousand (\$50,000) without the prior written approval of the City. The deductible or self-insured retention for professional Liability Insurance shall not exceed One Hundred Thousand (\$100,000) without the prior written approval of the City.

I. Consultants 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 Consultant is obligated to provide the deductibles or self-insured retentions established in the Contract at no additional expense to the City.

J. If the Consultant fails to carry the required insurance, the City may (i) order the Consultant to stop further performance hereunder, declare the Consultant in breach, pursuant to Section E-5, terminate the Contract if the breach is not remedied, or (ii) purchase replacement insurance and withhold the costs or premium payments made from the payments due to the Consultant or charge the replacement insurance costs back to the Consultant.

K. 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.

L. The Consultant is encouraged to purchase any additional insurance it deems necessary.

M. The Consultant 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 Consultant, its subcontractors or anyone employed, directed or supervised by the Consultant.

N. Period of Coverage. If the insurance coverage is underwritten on a "claims made" basis, the retroactive date shall be prior to or coincident with the date of this Contract and the Certificate of Insurance shall state that coverage is "claims made" and the retroactive date. The Consultant shall maintain all insurance coverages specified in Section 10.5 for the duration of this Contract. Claims made insurance (Professional Liability-10.5.4) shall be kept in place after construction of the Project is substantially complete until the "Statute of Repose" in the State of Nevada has expired. In the event if a claims made policy has a

lapse or cancellation of coverage before the Statute of Repose has expired, the Consultant shall be responsible for any claim made in the absence of valid collectable insurance.

## **10.6 Indemnity.**

A. **Claims Not Based Upon or Arising out of Professional Services.** Notwithstanding any of the insurance requirements set forth in Section 10.5, and not in lieu thereof, the Consultant shall defend, indemnify, and hold the City, its Mayor, Councilmen, officers, employees, and agents (herein the "Indemnities"), harmless from any and all claims (including, without limitation, patent infringement, and copyright claims), damages, losses, expenses, suits, actions, decrees, judgments, arbitration awards, or any other form of liability (including, without limitation, reasonable attorney fees and court costs) (collectively herein the "Claims") to the extent that such Claims are caused by the negligence, errors, omissions, recklessness, or intentional misconduct of the Consultant, its employees, subcontractors, agents, or anyone employed by the Consultant's subcontractors or agents (herein the "Consultant Parties"), which are not based upon or arising out of the professional services performed by the Consultant Parties in the performance of this Contract.

As part of its obligation hereunder, the Consultant shall, at its own expense, defend the Indemnities against the Claims brought against them, or any of them, which is caused by the negligence, errors, omissions, recklessness, or intentional misconduct of the Consultant, its employees, subcontractors, or agents, for and against which the Consultant is obligated to indemnify the Indemnities pursuant to this Section, unless the Indemnities, or any of them elect to conduct their own defense which, in such case, shall not relieve the Consultant of its obligation of indemnification set forth herein. If the Consultant or the Consultant's insurer fails to defend the Indemnities as required herein, the Indemnities shall have the right, but not the obligation, to defend the same and, if the Consultant is adjudicated by the trier of fact to be liable, the Consultant agrees to pay the direct and incidental costs of such defense (including reasonable attorney fees and court costs) which is proportionate to the liability of the Consultant.

B. **Claims Based Upon or Arising out of Professional Services.** Notwithstanding any of the insurance requirements set forth in Section 10.5, and not in lieu thereof, the Consultant shall indemnify and hold the Indemnities, harmless from any and all claims (including, without limitation, patent infringement and copyright claims), damages, losses, expenses, suits, actions, decrees, judgments, arbitration awards, or any other form of liability (including, without limitation, reasonable attorney fees and court costs) (collectively herein the "Professional Liability Claims") to the extent that such Professional Liability Claims are caused by the negligence, errors, omissions, recklessness, or intentional misconduct of the Consultant Parties, which are based upon or arising out of the professional services performed by the Consultant Parties in the performance of this Contract.

If the Consultant Parties are adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees and costs to be paid by the Consultant to the Owner, as reimbursement for the attorney's fees and costs incurred by the Owner in defending the Professional Liability Claims, in an amount proportionate to the liability of the Consultant.

As used in this Section 10.6, "agents" means those persons who are directly involved in and acting on behalf of the City or the Consultant, as applicable, in furtherance of the contract or the public work to which the Contract pertains.

**10.7 Assignment.** The City and the Consultant each bind itself and its partners, successors, administrators and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party in respect to all covenants of this Contract, except the Consultant shall not assign, sublet or transfer any obligation or benefit under this Contract without the written consent of the City. Nothing contained herein shall be construed as creating any personal liability on the part of any officer or agent of the City.

**10.8 Waiver.** No consent or waiver, express or implied, by either party to this Contract, or of any breach or default by the other in the performance of any obligations hereunder, shall be deemed or construed to be a consent or waiver of any other breach or default by such party hereunder. Failure on the part of any party hereto to complain of any act, or failure to act of the other party, or to declare that other party in default hereunder, irrespective of how long such failure continues, shall not constitute a waiver of the rights of such party hereunder. Inspection, payment, or tentative approval or acceptance by the City or the failure of the City to perform any inspection hereunder, shall not constitute a final acceptance of the work or any part thereof and shall not release the Consultant of any of its obligations hereunder.

**10.9 Consultant Warranties.** The Consultant hereby represents and warrants that: 1) it is financially solvent, able to pay its debts as they mature, and is possessed of sufficient working capital to complete this Contract, that it is experienced, competent, qualified and able to furnish the plant, tools, materials, supplies, equipment and labor which is used to perform the services contemplated by this Contract, and that it is authorized to do business in the City of Las Vegas and the State of Nevada, 2) it holds a license, permit or other special license to perform the services included in this Contract, as required by law, or employs or works under the general supervision of the holder of such license, permit or special license, 3) its computer hardware, software, and firmware will continue functioning without interruption, and will continue to accurately process date, time, and data necessary to the performance of this Contract, and 4) it has, pursuant to the requirements of Resolution 79-99 adopted by the City Council on August 4, 1999, (effective October 1, 1999), as amended by resolution 105-99 (adopted by the City Council on November 17, 1999), disclosed on the form attached hereto as Exhibit "H" (Disclosure of Ownership/Principals) all of the principals, including partners, of the Consultant, as well as all persons and entities holding more than a one percent (1%) interest in the Consultant or any principals of the Consultant. If the Consultant, or its principals or partners, are required to provide disclosure under federal law (such as Securities and Exchange Commission or the Employee Retirement Income Act) and current copies of such federal disclosures are attached to Exhibit "H," the requirements of this Section shall be deemed satisfied. During the term of this Contract, the Consultant shall notify the City in writing of any material change in the above disclosure on Exhibit "H" within fifteen (15) days of such change.

**10.10 Consultant's Employees.** The Consultant shall be responsible for maintaining satisfactory standards of competency, conduct and integrity, of personnel assigned to the Project, and shall be responsible for taking such disciplinary action with respect to such personnel as may be necessary. In the event the Consultant fails to remove any employee from the work of this Contract whom the City deems incompetent, careless or insubordinate, or whose continued employment on the work is deemed by the City to be contrary to the public interest, the City reserves the right to require such removal as a condition for the continuation of this Contract.

**10.11. Independent Contractor.** It is hereby expressly agreed and understood that in the performance of the services required herein, the Consultant and any other person employed by him hereunder shall be deemed to be an independent contractor and not an agent or employee of the City.

**10.12 Applicable Law.**

A. This Contract shall be construed and interpreted in accordance with the laws of the State of Nevada.

B. Compliance with Laws. The Consultant shall in the performance of its obligations hereunder comply with all applicable laws, rules and regulations of all governmental authorities having jurisdiction over the performance of this Contract including, without limitation, the Federal Occupational Health and Safety Act and all state and federal laws prohibiting and/or related to discrimination by reason of race, sex, age, religion or national origin.

**10.13 Certification—No Israel Boycott.** By signing this Contract, Company certifies that, at the time of Contract signature, it is not engaged in, and agrees for the duration of the Contract, not to engage in a boycott of the State of Israel.

"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.

**10.14 Severability.** In the event that any provisions of this Contract shall be held to be invalid or unenforceable, the remaining provisions of this Contract shall remain valid and binding on the parties hereto.

**10.15 Confidentiality.**

A. The Consultant shall treat the information relating to the Project, which has been produced by the Consultant or provided by the City, as Confidential Information of the City and shall not permit its release to other parties or make any public

announcement or publicity release without the City's written authorization. The Consultant shall also require each subconsultant to comply with this requirement. The submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication relieving the Consultant of its confidentiality obligation imposed herein.

B. Definition. The term "Confidential Information" shall mean any confidential or proprietary business, technical, financial or other non-public information or materials in a tangible or electronic format of a party ("Disclosing Party") provided to the other party ("Receiving Party") in connection with the Project, whether orally or in physical form, that is not generally known or available to others and shall include the terms of this Contract. However, Confidential Information shall not include information (i) previously known by Receiving Party without an obligation of confidentiality; (ii) acquired by Receiving Party from a third party which was not, to Receiving Party's knowledge, under an obligation of confidentiality; (iii) that is or becomes publicly available through no fault of Receiving Party; or (iv) that Disclosing Party gave written permission to Receiving Party to disclose, but only to the extent of such permitted disclosure.

C. Requirements. Except as required by applicable law, each Receiving Party agrees that (i) it will use Confidential Information of Disclosing Party solely for the purpose of the Agreement; and (ii) it will not disclose the Confidential Information of the Disclosing Party to any third party other than the Receiving Party's employees or agents, on a need-to-know basis, who are bound by obligations of nondisclosure and restricted use at least as strict as those contained herein, provided that Receiving Party remains liable for any breach of the confidentiality provisions of this Contract by its employees or agents. The Receiving Party will protect the Confidential Information of the Disclosing Party in the same manner that it protects the confidentiality of its own proprietary and confidential information, but in no event using less than a reasonable standard of care. In the event Receiving Party receives a subpoena or other administrative or judicial demand for any Confidential Information of Disclosing Party, Receiving Party will give Disclosing Party prompt written notice of such subpoena or demand and allow Disclosing Party to assert any available defenses to disclosure. Upon request by Disclosing Party, Receiving Party will return or destroy all copies of any Confidential Information of the Disclosing Party. Confidential Information will at all times remain the property of the Disclosing Party. The provisions of this Section will expire three (3) years after the expiration or termination of the Agreement, except with respect to Confidential Information that constitutes "trade secrets" under applicable law for which this Section shall survive indefinitely.

D. Nevada Public Records Act. Consultant acknowledges that City is a government entity subject to the public records laws of the State of Nevada as set forth in Chapter 239 of the Nevada Revised Statute ("NPRSA") and that certain Confidential Information may be subject to the NPRSA. Therefore, notwithstanding anything to the contrary contained in this Agreement or that (i) the City is subject to the requirements and obligations for disclosure of the NPRSA; (ii) certain records of the City are subject to inspection and reproduction by the general public, Consultant shall nevertheless continue to treat all Confidential Information confidential pursuant to the terms of this Agreement. Consultant, therefore agrees (i) that any disclosure of Confidential Information by the City pursuant to the NPRSA shall not be a violation, waiver, and/or a default whatsoever of this Agreement by the City; and (ii) any disclosure of Confidential Information by the City pursuant to the NPRSA is permitted under this Agreement and shall not waive or relieve Consultant's ongoing contractual obligations under this Agreement. For the avoidance of doubt, any Confidential Information disclosed by the City pursuant to the NPRSA shall still remain subject to the confidentiality obligations stated in this Agreement. In the event City receives any subpoena, demand, or request under the NPRSA or other public records law for any Confidential Information or other data or information received by City from Consultant that was received in connection with any services performed by Consultant, City will immediately notify Consultant of such subpoena, demand or request and reasonably cooperate with any efforts by Consultant to assert any available defenses to disclosure. In no event shall City make disclosure of such information before ten (10) business days have elapsed from the date City notifies Consultant of the subpoena, demand, or request in order to provide Consultant with a reasonable opportunity to seek judicial intervention concerning the potential disclosure of Consultant's Confidential Information and/or trade secret information. If Consultant informs City in writing of Consultant's intent to seek a court order barring disclosure, City agrees to withhold the requested information, to the extent permitted by the NPRSA, pending court resolution of the matter, or interim order by a court. Whenever a requesting party pursues legal action to compel disclosure of Confidential Information or other data or information received by City from Consultant, Consultant will bear responsibility for all costs of defending such legal action.

**10.16 Site Inspection.** The Consultant represents that it has visited the location of the Project and has satisfied itself as to the general condition thereof and that the Consultant's compensation as provided for in this Contract is just and reasonable compensation for performance hereunder including reasonably foreseen and foreseeable risks, hazards and difficulties in connection therewith based on such above-ground observations.

**10.17 Modification.** All modification, amendments, and change orders to this Contract are null and void unless reduced in writing and signed by the parties hereto.

**10.18 Notice.** Any written notice required to be given under Sections 1.0 through 10.24 of this Contract shall be deemed to have been given when the written notice is (i) received by the party to whom it is directed by personal service or (ii) deposited with the United States Postal Service, postage prepaid, addressed to the City Representative or the Consultant Representative, whomever is the proper recipient, and mailed to the address set forth in the introductory paragraph to this Contract.

**10.19 Prohibition Against Contingent Fees.** The Consultant warrants that no person or entity has been employed or retained to solicit or secure this Contract with the agreement or understanding that a commission, percentage, brokerage or contingent fee would be paid to that person. For breach or violation of this provision, the City shall have the right to annul this Contract without liability or, in its discretion, to deduct from the compensation to be paid to the Consultant, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

**10.20 Claim or Dispute Resolution.**

A. Notice of Claim or Dispute. For each claim or dispute which the Consultant has against or with the City (except for any claim for an equitable adjustment under Section 3.1 which is subject to the 30-day limitation set forth therein), notice thereof must be submitted in writing to the City Representative within a reasonable time after the claim or dispute arises, but no later than thirty (30) days after final payment is made to the Consultant. The purpose of written notification is to place the City on notice so that proper measures can be taken to properly defend against the claim or dispute, and the failure to give such notice shall preclude the Consultant from subsequently mediating that particular claim or dispute pursuant to Section 10.20.C of this Contract, and the Consultant shall have no further recourse against the City. Pending a final decision on the claim or dispute under Sections 10.20.B or 10.20.3, the Consultant shall proceed diligently with the performance of this Contract.

B. Resolution by Management. The City Representative and the Consultant Representative shall meet within a reasonable time after receipt of the written notice received pursuant to Section 10.20.A in an attempt to resolve the claim or dispute to the mutual satisfaction of the parties. If the matter is not disposed of by mutual agreement between the City Representative and the Consultant Representative, the claim or dispute shall be decided by the Director of Public Works, whose decision shall be reduced to writing and mailed or otherwise furnished to the Consultant. The decision of the Director of Public Works shall be final and conclusive unless, within thirty (30) days after the date on which the Consultant receives its copy of such decision, the Consultant mails or otherwise furnishes to the Director of Public Works a written request to mediate the claim or dispute, in which event the parties shall proceed pursuant to provisions of Section 10.20.C. The failure to make such request shall preclude the Consultant from proceeding any further on the claim or dispute, and the Consultant shall have no further recourse against the City.

C. Resolution by Mediation. Upon receipt of the request to mediate authorized pursuant Section 10.3.B or Section 10.20.B, the City and the Consultant shall come to an agreement as to the appointment of a mediator for purposes of hearing the appeal. If the parties cannot agree upon an independent private mediator within 45 days after notice of the receipt of the request to mediate, the party may proceed to file a judicial action with the Eighth Judicial District Court, Clark County, Nevada. The mediation shall take place in Clark County, Nevada, unless otherwise agreed to by the parties. The fees and expenses of the mediator shall be equally shared by both parties. Each party is responsible for their own costs, expenses, consultant fees and attorney fees incurred in the presentation or defense of any claim, dispute or controversy that is subject to mediation between the parties. The decision of the mediator shall be non-binding.

D. Right of Judicial Action. Any claim, dispute, or other matter in question between the parties concerning any provisions of this Contract that cannot otherwise be resolved between the parties through the use of mediation required herein may be submitted for judicial action. Prior to the exercise of this right, the party seeking judicial relief shall have provided the other party 30 days prior written notice before filing such judicial action.

**10.21 Attorney Fees.** The City or the Consultant as the prevailing party that brought any litigation or arbitration to enforce the provisions of this Contract shall be entitled to reasonable attorney fees and court costs.

**10.22 Calendar Day.** All references in this Contract to days are to calendar days unless otherwise indicated.

**10.23 Exhibits.** All exhibits referenced in this Contract are hereby incorporated by this reference as a part of this Contract. Any conflict between the provisions of this Contract and the Exhibits incorporated herein shall be governed by the provisions of this Contract.

**10.24 Counterparts; Electronic Delivery.**

A. This Contract may be executed in any number of counterparts, each of which shall be an original and all of which shall together constitute one and the same instrument. It shall not be necessary for any counterpart to bear the signature of all parties hereto. Executed copies hereof may be delivered by facsimile or e-mail, pursuant to NRS 719.240, and upon receipt will be deemed originals and binding upon the parties hereto, regardless of whether originals are delivered thereafter.

B. The parties agree that this Contract may be signed electronically via the City's designated electronic signature platform, and that the electronic signatures appearing herein shall be considered the same as handwritten signatures for the purposes of validity, admissibility, and enforceability.

**10.25 Contract Version.** This document reflects the current standard provisions for the City's Professional Services Contract updated as of December 2022.

IN WITNESS WHEREOF, the parties have caused this Contract to be executed the day and year first above written.

CITY OF LAS VEGAS

NINYO & MOORE GEOTECHNICAL AND ENVIRONMENTAL  
SCIENCES CONSULTANTS

*Brad L. Olsen*

8/16/2023 | 5:03 PM PDT

Signature

Date

Signature

Date

Printed Name

Brad L. Olsen

Printed Name

Principal Engineer

Title

Title

ATTEST:

LuAnn D. Holmes, MMC  
City Clerk

Date

APPROVED AS TO FORM:

DocuSigned by:

*Timothy J. Geswein*

8/16/2023 | 3:24 PM PDT

Deputy City Attorney

Date

Timothy J. Geswein

Printed Name

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## **LIST OF EXHIBITS**

<b>EXHIBIT “ A ”</b>	<b>SCOPE OF SERVICES</b>
<b>EXHIBIT “ B ”</b>	<b>REQUIRED SUBMITTALS</b>
<b>EXHIBIT “ C ”</b>	<b>PERFORMANCE SCHEDULE</b>
<b>EXHIBIT “ D ”</b>	<b>FEE BREAKDOWN</b>
<b>EXHIBIT “ E ”</b>	<b>COMPENSATION</b>
<b>EXHIBIT “ F ”</b>	<b>KEY PERSONNEL LIST</b>
<b>EXHIBIT “ G ”</b>	<b>CERTIFICATE OF DISCLOSURE</b>



## EXHIBIT A SCOPE OF SERVICES

### 100.1 SCOPE

**100.1.1** The scope of the Project is described in the Construction Documents, City of Las Vegas drawing number **107V3757-2**, current as of the date of this Contract.

### 101 GENERAL

#### 101.1 GENERAL

**101.2 Proposal Included.** In addition to the services to be provided within this Contract, the scope of services is additionally contained in the Consultant's proposal dated **November 29, 2022** attached and included as Exhibit "**A-1 Proposal**".

**101.3** If any Consultant proposal or other documents prepared by anyone other than the City is attached to this Contract or included by reference herein, the terms of this Contract shall govern any conflicts between the documents and this Contract, and any such attachments shall only be utilized to compliment this Contract in describing the detail of the scope of work described in this Contract, to avoid re-typing standard schedules of hourly rates for personnel, rates for material tests, and similar standard rate schedules. All other terms, conditions, and uses of any such attachments are to be ignored in connection with this Contract, even if such attachments are signed by the parties to this Contract.

**101.4** The Consultant acknowledges that they have thoroughly reviewed the construction documents for the Project and visited the construction site, and hereby waives any right to claim additional compensation for any reason that could have been foreseen by a knowledgeable and experienced consultant.

**101.5** By signing this Contract, the Consultant warrants that it is accredited by the International Accreditation Service (IAS) as required by the regulatory authority for the scope of this Contract. If the Consultant fails to maintain required accreditation during the term of this Contract, the Consultant shall immediately notify the Owner. Failure to maintain accreditation shall be deemed an event of Default under the provisions of Section 10.3 of this Contract.

**101.6** Testing and sampling operations shall be in accordance with recommended American Society for Testing Materials (ASTM) Standards and other standard testing methods and procedures, and as necessary to produce the information required for the reports. Report all laboratory determinations.

**101.7** The Consultant, at no additional cost, shall properly retain samples for a period of one year after completion of the Project, and a longer period if so instructed by the City in which case reasonable storage charges shall be negotiated prior to the time extension, or the samples delivered to the City if charges cannot be negotiated.

**101.7.1 Project Management Software.** Upon City request, Consultant shall utilize the City's online project management software (MasterWorks) as the primary means of communication with the City for this Project including, but not limited to, correspondence, contract changes, claims, reports, schedules, invoices, photos, drawing and specification submittals, and construction administration.

- ***The City shall provide:***

- A limited training manual for the MasterWorks software and a maximum of two hours of MasterWorks software training for up to four people at the City's offices.
- The cost of any software licenses required by the MasterWorks software manufacturer or distributor.
- User accounts for Consultant's access to the MasterWorks software.

- ***The Consultant shall provide:***

- Training of Consultant personnel required to utilize the MASTERWORKS software, except as provided by the City above.

- o Information using the forms, screen views, and information fields provided in the software and training materials.
- o Electronic notification in the MASTERWORKS software of any submittals that cannot be transmitted electronically, such as material samples.
- o Large format scanning capabilities with file size, resolution, and file naming convention as directed by the City.
- o Computer hardware, software, peripheral equipment, accessories, and Internet access as needed to integrate with and fully utilize the MASTERWORKS software, such as Adobe Acrobat, Internet Explorer, and Microsoft Word.
- o Frequent monitoring of the MASTERWORKS software.

**101.7.2** Documents approved in the MASTERWORKS software shall have the same effect as ink-signed originals. Accordingly, the Consultant is required to safeguard his usernames and passwords, particularly those that have been given the rights within the MASTERWORKS software to provide approvals, and no excuse will be entertained by the City for unauthorized MASTERWORKS software access that uses the Consultant's assigned usernames. The Consultant shall ink-sign documents, in addition to or instead of the MASTERWORKS approvals, upon City request.

## 102 REGULATORY AUTHORITIES

**102.1** The Consultant acknowledges that they have thoroughly reviewed the scope of work of this Contract with all governmental regulatory authorities, have included all requirements of these authorities in the Fee shown in Exhibit "D", and hereby waives any right to claim additional compensation for any reason caused by these regulatory authorities.

## 103 AUTHORITY

**103.1** The Consultant does have the authority and is responsible for immediately rejecting delivered non-compliant materials, without prior consultation with the City should the City Representative be unavailable. Rejection shall be verbally to the Contractor with written confirmation to the Contractor and City.

**103.2** The Consultant does not have authority over design revisions, construction document interpretations, construction means and methods, stop work notices, construction change orders, construction change directives, contractor payments or claims.

## 104 CONTRACTOR

**104.1** The Consultant does hereby acknowledge, understand and agree that the construction means, methods, and scheduling of the individual trades involved in the Project are under the control of the Contractor and not the City, and that the Consultant is required to coordinate with the Contractor in performance of this Contract regardless of how the Contractor chooses to schedule the work, or what means and methods the Contractor chooses to utilize, and that the Consultant is experienced in the work of this Contract and the type of construction shown in the Project documents, and that the Consultant has thoroughly reviewed all of the available documents for the Project, and will perform the services of this Contract without an increase in compensation from the City for any construction conflicts, problems or delays encountered in regard to the Contractor, subcontractors, workers, construction type, construction schedule, construction means and methods, site parking, site office, site utilities, and all other construction conditions that are under the control of the Contractor.

**104.2** References within this Contract to Contract Documents refers to the entire body of documents and references that make up the Contractor's terms, conditions, standards, and requirements for the construction of the Project.

## 105 MEETINGS

**105.1** If requested by the City, the Consultant shall attend and participate in the Pre-Construction Conference with the Construction Contractor. The Consultant's team shall participate in periodic "Partnering Meetings" with the City and the Construction Contractor for discussion of shared goals, processes, and procedures during the construction process, which shall be attended by a Consultant team member who has high-level decision-making authority, and require the same in all subconsultant contracts. The Consultant shall attend and participate in Construction Progress Meetings, weekly or more frequently as requested by the City. Meeting dates, times, and place will be determined by the City.

## 106 STANDARDS

**106.1** The following references, as applicable, shall be used as standards for inspection work performed under this Contract

- 106.1.1** Design and Construction Standards for Wastewater Collection Systems from Clark County Water Reclamation District (formally Clark County Sanitation District)
- 106.1.2** Nevada Department of Transportation (NDOT) references (most current editions):
  - Standard Specifications for Road and Bridge Construction (NDOT Silver book).
  - Standard Plans for Road and Bridge Construction.
- 106.1.3** American Society for Testing and Materials (ASTM)
- 106.1.4** American Association of State Highway and Transportation Officials (AASHTO)
- 106.1.5** Clark County Regional Flood Control District's Hydrologic Criteria and Drainage Design Manual
- 106.1.6** Uniform Standards Plans and Specifications for Public Works Construction Off-Site Improvements, Clark County Area (Standard Specifications)
- 106.1.7** American Concrete Institute (ACI)

## 107 SCOPE OF WORK

**107.1 General.** The Consultant shall provide full service material testing, quality assurance testing, and, if applicable, field inspection during construction in accordance with the Contract Documents and this Contract.

### **107.1.1 Field Testing**

- The Consultant will be responsible for providing field testing for soil, aggregate, concrete, and asphalt as required by the Contract Documents.
- The Consultant will be responsible for reviewing and maintaining all field-testing data and reports for contract compliance.

### **107.1.2 Laboratory Testing**

- The Consultant will be responsible for providing laboratory testing for soil, aggregate, concrete, asphalt, and pipe lining required by the Contract Documents.
- The Consultant will be responsible for maintaining all source testing data and reports, including retesting of any and all failed tests.

### **107.1.3 Field Inspection**

- The Consultant will be responsible for providing qualified technician(s) to perform inspections as directed by the City's Representative. The field inspector(s) shall notify the City's Representative when establishing the time of arrival and departure from the job site. All reports will be provided in the format requested by the City.

**107.2 Testing Requirements.** The requirements for quality assurance material testing and control can be downloaded at <https://lasvegasnevada.gov/Government/Departments/Public-Works/City-Engineering> and are considered the basis for materials testing fees for this contract. Actual testing frequencies may vary based on direction from the City's representative.

## **107.3 Test Results Delivery Time**

### **107.3.1 Soil Tests**

- The Consultant shall perform relative compaction test of subgrade, aggregate base grade and trench backfill for verification of compliance with the project specifications when directed by the City and follow testing frequencies as shown in this Contract. Test results shall be reviewed and delivered to the City's Representative prior to the Consultant leaving the construction site daily.
- The Consultant shall retrieve samples from the project site and perform laboratory Moisture Density tests when requested by the City. Test results shall be delivered to the City or its Agent within 3 working days following samples being retrieved from the project site.

- The Consultant shall retrieve samples from the project site and perform laboratory Sieve Analysis tests when requested by the City. Test results shall be delivered to the City or its Agent within 2 working days following samples being retrieved from the project site.
- The Consultant shall retrieve samples from the project site and perform laboratory R-Value tests when requested by the City. Test results shall be delivered to the City or its Agent within 3 working days following samples being retrieved from the project site.
- The Consultant shall retrieve samples from the project site and perform laboratory Percent of Wear tests when requested by the City. Test results shall be delivered to the City or its Agent within 3 working days following samples being retrieved from the project site.
- The Consultant shall retrieve samples from the project site and perform laboratory Plasticity Index tests when requested by the City. Test results shall be delivered to the City or its Agent within 3 working days following samples being retrieved from the project site.
- The Consultant shall retrieve samples from the project site and perform laboratory Sulfate Content tests when required by the City. Test results shall be delivered to the City or its Agent within 3 working days following samples being retrieved from the project site.

### **107.3.2 Concrete Tests**

- The Consultant shall perform on-site slump, temperature, air content, determination of unit weight and consistency tests for verification of compliance with the project specifications when directed by the City. Test results shall be delivered to the City's Representative prior to the Consultant leaving the construction site daily.
- The Consultant shall prepare a minimum of 4 test cylinders or as directed by the City representative on the project site at the time of concrete placement and perform laboratory compressive strength tests when requested by the City. Cylinders shall be cured on-site in a cure box supplied by the Consultant, for a period of 24 hours before removal. Results shall be delivered to the City within 2 working days following each cylinder being tested.

### **107.3.3 Asphaltic Concrete Tests**

- The Consultant shall perform on-site density tests by utilizing "Density of Bituminous Concrete in Place by Nuclear Method" ASTM D 2950 methodology at the time of asphaltic concrete placement for verification of compliance with the project specifications when directed by the City. Test results shall be delivered to the City's Representative prior to the Consultant leaving the construction site daily.
- The Consultants shall retrieve samples from the project site and perform laboratory Extraction/Gradation tests when requested by the City. Test results shall be delivered to the City within 2 working days following samples being retrieved from the project site.
- The Consultant shall retrieve samples from the project site and perform laboratory Maximum Theoretical Specific Gravity tests utilizing the Rice methods, when requested by the City. Test results shall be delivered to the City within 2 working days following samples being retrieved from the project site.
- The Consultant shall retrieve samples from the project site and perform laboratory Unit Weight and Thickness tests when requested by the City. Test results shall be delivered to the City within 2 working days following samples being retrieved from the project site.
- The Consultant shall retrieve samples from the project site and perform laboratory Marshall Series tests when requested by the City. Test results shall be delivered to the City within 3 working days following samples being retrieved from the project site.

## **108 CONSULTANT REPORTING**

**108.1** In addition to the reports required by the material testing sections of the Contract Documents, the Consultant shall immediately report verbally and in writing to the City Construction Project Representative any:

**108.1.1** Testing or inspection that fails specifications or requirements (non-conforming items).

**108.1.2** Missed testing or inspections, including periodic inspections when continuous was required.

**108.1.3** Testing where there is a reasonable doubt that the future test results may not meet the specifications.

**108.1.4** Construction that proceeds without the required testing or inspection.

**108.1.5** Construction that proceeds after uncorrected failed test results or doubtful future results.

**108.1.6** Construction that is not in compliance with the Contract Documents.

**108.1.7** Structural failure or collapse.

**108.1.8** Disciplinary actions taken by regulatory authorities against the Consultant.

**108.1.9** Daily reports shall note the following minimum information for the City's use on each report:

- Whether inspection was continuous or periodic.
- Time Beginning Inspection.
- Time Ending Inspection.
- Total Hours spent inspecting for the day.
- List of Non-conforming Items not yet corrected, inspected, and approved at the end of the day.

## **109 CONSULTANT LIMITATIONS**

**109.1** The Consultant is NOT authorized to do any of the following:

**109.1.1** To inspect or approve any work outside of the Contract Documents unless requested to do so by the City;

**109.1.2** To inspect or approve or otherwise authorize any work to commence before the City has made the initial inspection;

**109.1.3** To inspect or approve any work other than that for which they are specifically certified;

**109.1.4** To accept alternative materials, structural changes, or revisions to plans without approval by the City; and

**109.1.5** Any act or statement to the Contractor that leads the Contractor to claim a change in price or schedule.

## **110 RE-INSPECTION and RE-TESTING**

**110.1** Re-inspection and re-testing services shall be considered Additional Services as provided for in this Contract. The Additional Services requirement for pre-authorization in writing shall be waived for a re-inspection and re-testing if: 1) the re-inspection and re-testing is required by regulatory authorities, and 2) it is not reasonable to require the pre-authorization without impacting the Project schedule, and 3) the Consultant provides itemized detailed records of the re-inspection and re-testing performed to the City within 24 hours of performing each service.

**110.2** Re-inspection and re-testing claims shall be invalid and no compensation shall be paid to the Consultant if one or more of the following events occur: 1) the Consultant fails to provide records on a daily "as performed" basis or in sufficient detail to evaluate the claim, or 2) the need for such service is caused in whole or part by the actions or inactions of the Consultant, or the Consultant's failure to fulfill their duties with regulatory authorities, regardless of whether such duties or failure is specifically referenced by this Contract.

**END OF EXHIBIT "A"**

## **EXHIBIT B REQUIRED SUBMITTALS**

### **200 GENERAL**

- 200.1** For the services set forth in Exhibit "A" (Scope of Services), the Consultant shall deliver the following minimum submittals and deliverables for the Project, which shall be accomplished as a prerequisite to payment for each service.
- 200.2 Material Testing.** Five (5) copies of any reports, stamped, signed and dated by the licensed engineer of record.
- 200.3 Monthly Report.** The consultant shall submit monthly reports certifying that all sampling and testing procedures have been performed in accordance to accepted industry standards.
- 200.4 Final Report.** The Consultant shall submit a final report containing all test results.
- 200.5** All reports shall be on acid free, white paper, 8-1/2 x 11 inches, suitable for photocopying and bound in booklet form, sealed by a Nevada professional Engineer.
- 200.6** Submittals to regulatory agencies shall be as required for each agency.
- 200.7** It is understood that the City may produce and distribute copies of the reports as necessary in connection with the Project without incurring obligation for additional compensation.

**END OF EXHIBIT "B"**

## EXHIBIT C PERFORMANCE SCHEDULE

### 300 NOTICE TO PROCEED

- 300.1** The start date for the Consultant's scope of services shall be, without any further notice requirement, the date of this Contract. The Consultant shall perform the services required as expeditiously as is consistent with professional skill and care and the orderly progress of the Project.
- 300.2** Site access is hereby provided to the Consultant by the City for the scope of services contained in this Contract. The City either has title to the property and the right of entry, or the City has secured permission from the present owner and tenant for entry to the property. The Consultant shall coordinate site access with any contractors working on site.

### 301 SCHEDULE OF SERVICES

- 301.1** For the services set forth in Exhibit "A" (Scope of Services), the Consultant shall accomplish the services in accordance with the following schedule:
- 301.1.1** Unless this Contract calls for a shorter delivery time (such as the individual test delivery times required in Exhibit "A"), the specified services shall be completed as the Project progresses and reports delivered to the City within **thirty calendar days** of the inspection and testing, barring circumstances beyond the Consultant's control that force a delay.
- 301.2** The Consultant shall respond to a request to perform an inspection or test within **twenty four hours** from the time the request is received from the City Representative.
- 301.3** The Consultant shall have in his possession a cellular phone and city phone numbers from which he may be contacted or may contact the City Representative while on the construction site.
- 301.4** The Consultant shall provide the required services until the Project is completed.

END OF EXHIBIT "C"

## EXHIBIT D FEE BREAKDOWN

### 400 TOTAL COMPENSATION

- 400.1** The total compensation to be paid to the Consultant for performance of this Contract including Basic Services, Additional Services, and Reimbursable Expenses shall not exceed **\$295,311.00**. Increases to total compensation may only be authorized by written amendment or change order to this Contract. This total compensation amount is comprised of the parts described in this Exhibit "D" (Fee Breakdown).

### 401 BASIC SERVICES PAYMENT (Not to exceed cost based on direct salaries)

- 401.1** The City agrees to pay the Consultant on the basis of direct salary (Exhibit E – Article 500), times a multiplier of **2.65**, plus approved non-salary expenses identified in Section 7.C, Section 7.D, and Exhibit E based on the Consultant's acceptable completion of the Scope of Services (Exhibit "A"). The Consultant agrees to perform the services necessary to complete each task and, if applicable, each subtask, not to exceed the fee set forth in this Exhibit "D" (Fee Breakdown). Payments shall be made for completed tasks pursuant to monthly invoices submitted in accordance with this Contract.

TESTING AND INSPECTION SERVICES		REMARKS
TOTAL NOT-TO-EXCEED COST	\$270,311.00	

- 401.2** The following Basic Services Worksheet Exhibit A-1 table(s) shows the estimated hours and the dollar cost of those hours to be expended by the Consultant by various personnel and the monthly cost of authorized services and facilities based on the rates established in Exhibit "E" over the course of the Project and, although this table represents the basis for how the Total Not-to-Exceed Cost for Basic Services was established, it is not a part of this Contract and not to be used as the basis for payment. The personnel, hours, facilities, assets, and other services provided will be adjusted over the course of the Project at the direction of the City Representative, with the Consultant earning payment for only those hours and services performed and facilities provided in accordance with this Contract. The cost of these adjustments shall be calculated utilizing the rates agreed to in this Contract to the extent they are applicable.
- 401.3** The City Representative shall have the authority to make pre-authorized written work scope adjustments within the Basic Services Not-to-Exceed Cost without processing this Contract for an amendment or change order to be approved and signed by City Council or their designee.
- 401.4** An increase to the Total Not-to-Exceed Cost for Basic Services may only be authorized by written amendment or change order to this Contract.



## 402 ALLOWANCE FOR ADDITIONAL SERVICES

- 402.1** A **Not-To-Exceed Allowance** for Additional Services is hereby established as set forth below. The City Representative has authority to pre-authorize in writing Additional Services up to the Total Not-To-Exceed Cost. Services performed prior to receiving the required written authorization or in excess of the Total Not-To-Exceed Cost shall not be obligated for compensation.
- 402.2** Additional Services are services provided in the interests of the Project that are not set forth in Exhibit "A" (Scope of Services).
- 402.3** The Consultant shall be compensated for Additional Services in accordance with the Consultant Hourly Rates established in Exhibit "E" (Compensation). Additional Service compensation disputes shall be resolved in accordance with the claims and disputes provisions of this Contract and shall not be cause for the Consultant to delay providing requested services. Payment shall be made for each completed Additional Service pursuant to invoices submitted in accordance with this Contract.
- 402.4** **Continued Service.** If a fee cannot be negotiated for Additional Services, or some other disagreement arises between the parties to this Contract, or other event occurs that threatens to disrupt the Project schedule, regardless of the causes, the Consultant agrees to act in the best interest of the Project and to timely perform services as may be required by the City, independent of any dispute or claim, which shall be resolved in accordance with the terms of this Contract.
- 402.5** **Records.** The Consultant shall maintain and provide to the City itemized detailed records for each Additional Service including the names of personnel, date and hours worked, tasks completed, area of the Project under construction, scope of work, whether the service required a special trip to the site or was performed in addition to already scheduled on-going work on the site, and other information as may reasonably be required by the City to properly evaluate the services performed. In addition, to evaluate Additional Services provided or claimed, the City may require the Consultant to provide this same level of detail for other work being performed by the Consultant concurrent with, adjacent to, or otherwise related to the Additional Services under consideration.
- 402.6** Reimbursable Expenses may be compensated from this Allowance for Additional Services to the extent they are allowed by Exhibit "E" (Additional Compensation). Payment shall be made for each completed Reimbursable Expense pursuant to invoices submitted in accordance with this Contract. Expenses not listed in Exhibit "E" (Additional Compensation) as allowed Reimbursable Expenses shall not be compensated without amendment or change order to this Contract to allow them as Reimbursable Expenses.
- 402.7** Increases to this Total Not-To-Exceed Cost for Additional Services may only be authorized by written amendment or change order to this Contract.

ADDITIONAL SERVICES ALLOWANCE		ALLOWED SERVICES
TOTAL NOT-TO-EXCEED COST	\$25,000	Testing and Inspection Services

END OF EXHIBIT "D"

## EXHIBIT E COMPENSATION

### 500 CONSULTANT HOURLY RATES

**500.1** The following hourly rates represent the maximum allowable direct salary rate billable for payment of basic and additional services, as well as the basis for negotiation of added and reduced services. These hourly rates are valid for the duration of the Project and are representative of maximum direct salary costs. The Multiplier included in Exhibit D (Fee Breakdown) shall include associated overhead, administration, direct costs except as detailed in Section 7.C and Exhibit E, and profit. This includes, but is not limited to, all support personnel who normally work on non-specific project tasks including but not limited to receptionists, senior executives together with their assistants, financial accounting personnel, and personnel maintaining facilities, equipment and computers. Rates for laboratory services and other direct services are indicated on Attachment E-1.

CLASSIFICATION	MAXIMUM HOURLY RATE
Principal	\$77
Project Manager	\$62
Engineer	\$50
Construction Manager	\$TBD
Construction Coordinator	\$TBD
Senior Inspector	\$42
Inspector	\$36
Document Administrator	\$30
Scheduler	\$30

\* Hourly rates represent straight-time salary. Rates may be adjusted for city-approved overtime

**500.1 Proposal Included.** In addition to the above hourly rates, the Consultant's hourly rates are additionally contained in the Consultant's proposal dated **November 29, 2022** attached and included as Exhibit "**A-1 Proposal**". The above rates shall govern any discrepancies between it and the Consultant's proposal.

## 501 REIMBURSABLE EXPENSES

**501.1** The following Reimbursable Expenses are allowed:

REIMBURSABLE EXPENSE
None authorized or anticipated as of the date of this Contract.

**501.2** For Reimbursable Expenses of the Consultant, the City shall compensate the Consultant a multiple of one (1.0) times the actual direct costs incurred by the Consultant. The multiplier includes all compensation for overhead and profit.

**501.3** Reimbursable Expenses are limited to specific pre-authorized items or services purchased from third parties to this Contract, dedicated to only this Project. Additions to the above allowed Reimbursable Expenses may only be granted as a written amendment or change order to this Contract.

**501.4** If Reimbursable Expenses are established in this Contract as a fixed sum or a not-to-exceed amount, the Consultant has determined that this Reimbursable Expense amount will not be exceeded for the allowed Reimbursable Expenses for performance of the Services set forth in Exhibit "A" (Scope of Services), and accordingly does hereby assume the risk to complete the performance of this Contract without further compensation for Reimbursable Expenses should the costs exceed this fixed sum or not-to-exceed amount for Reimbursable Expenses.

**501.5** Estimated Travel and per diem expenses are included not-to-exceed the Basic Services Fees, Additional Travel expenses incurred prior to written authorization shall not be considered for reimbursement.

**501.6** Should travel and per diem expenses be so authorized by the City:

**501.6.1** Expenses shall be based on actual costs submitted for reimbursement with valid original receipts. If a receipt is not normally provided for the expense, a certification signed by the traveler shall be submitted. Submitted receipts for travel and per diem reimbursement shall name each traveler covered.

**501.6.2** Rates for lodging and individual meals shall not exceed the published U.S. General Services Administration rates at Clark County, Nevada, including the 75% limitation on the day of departure and return.

**501.6.3** Passenger vehicle mileage shall be reimbursed at the rate stipulated by the Internal Revenue Service.

**501.6.4** Examples of expenses that will not be reimbursed include alcoholic beverages, entertainment, laundry, dry cleaning and pressing, parking fines, gratuities and tips excepting for taxicab and meals a 15% tip if shown on the receipt, costs related to making reservations or other accommodations for travel, phone calls, computer or Internet access costs, car rentals larger than mid-size and car rental insurance, air travel other than the lowest coach fair available and travel insurance, premature departure and extended stays for personal reasons, and indirect route for personal preference.

END OF EXHIBIT "E"

## EXHIBIT F KEY PERSONNEL LIST

### 600 CITY PERSONNEL

600.1 CITY REPRESENTATIVE: CASSANDRA WATSON-MIHELICIC

600.2 CITY REPRESENTATIVE'S SUPERVISOR: JEREMY LEAVITT

### 601 CONSULTANT'S PROJECT STAFF

601.1 The following personnel will be assigned by the Consultant to work on the Project. Any changes or additions require City approval.

601.1.a CONSULTANT REPRESENTATIVE: ROBERT MORRISON

601.1.b CONSULTANT REPRESENTATIVE'S SUPERVISOR: NAIK BANAVATHU

601.1.c PROJECT MANAGER: BRITTANY HOOPER

601.1.d INSPECTOR: CHASE SKINKIS, MICHAEL BATES, DARIN FRANKLIN, KISHAN SINGH

601.1.e TESTING TECHNICIAN: DONALD BLAKE, ANTONIO MARTINEZ, ADRIEL MADAMBA, DARNEL GORME,  
JAMES DEGRELLA, NATE VAN BUREN, MARK HART

601.1.f CLERICAL: KARIE MILLER

601.1.g RESPONSIBLE IN CHARGE PERSON:  
List name of individual Engineer as licensed: ROBERT MORRISON

601.1.h IN CHARGE PERSON'S STATE OF NEVADA LICENSE NUMBER  
List Engineer license number: 22142

### 600.1 CONSULTANT'S SUBCONSULTANTS

600.1.1 **None.** All work to be performed by Consultant employees.

END OF EXHIBIT "F"

## EXHIBIT G

### CERTIFICATE – DISCLOSURE OF OWNERSHIP/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.

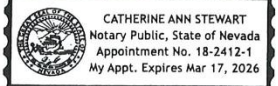

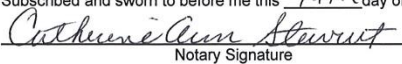
<b>Block 1: Contracting Entity</b>	
<b>Name:</b> Ninyo & Moore Geotechnical & Environmental Sciences Consultants	
<b>Address:</b> 5710 Ruffin Rd	<b>City / ST / Zip:</b> San Diego, CA 92123
<b>Telephone:</b> (858) 576-1000	<b>EIN or DUNS :</b> 33-0269828
<b>Block 2: Description / Subject Matter of Contract</b>	
<b>Services for:</b> GRAND TETON DRIVE OVERPASS	<b>Project Number:</b> STB6-0003(260)
<b>Block 3: <u>Type of Business</u></b>	
<input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Limited Liability Company <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Other:	

**CERTIFICATE – DISCLOSURE OF OWNERSHIP/PRINCIPALS (CONTINUED)**

<b>Block 4: Disclosure of Ownership and Principals</b>			
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.			
	<b>FULL NAME/TITLE</b>	<b>BUSINESS ADDRESS</b>	<b>BUSINESS PHONE</b>
<b>1</b>	Avram Ninyo/President	5710 Ruffin Rd., San Diego, CA 92123	(858) 576-1000
<b>2</b>			
<b>3</b>			
<b>4</b>			
<b>5</b>			
<b>6</b>			
<b>7</b>			
<b>8</b>			
<b>9</b>			
<b>10</b>			

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

<b>Block 5: Disclosure of Ownership and Principals – Alternate</b>	
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: <u>N/A</u>	
Date of Attached Document: <u>N/A</u>	Number of Pages: <u>N/A</u>

<b>Contracting Party Certification (Notarized signature required in event of contract award per section 4, "Incorporation")</b>	
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 <u>11/14/22</u> Date
Subscribed and sworn to before me this <u>14th</u> day of <u>November</u> , 20 <u>23</u>	
 Notary Signature	

**END OF EXHIBIT "G"**