USE AGREEMENT

THIS AGREEMENT is made and entered into this _________ day of _______________, 2010 , by and between the CITY OF LAS VEGAS, a municipal corporation within the State of Nevada (herein the "City") and TRUMAN ARNOLD COMPANIES, INC. (herein the "Supplier"),

RECITALS

WHEREAS, the Supplier and City of Fort Worth (herein "City of Fort Worth") have entered into that Contract dated April 16, 2009 (Bid No. 09-0012) which provides for Motor Fuels and Aviation Fuels (herein the "Supplier Contract"); and

WHEREAS, pursuant to NRS 332.195, governmental entities within this State may join or use the contracts of other governmental entities with the authorization of the Supplier; and

WHEREAS, the City desires to use the Supplier Contract between the Supplier and the City of Fort Worth; and

WHEREAS, the City and Supplier intend to enter into an agreement between themselves using the terms, conditions and specifications of the Supplier Contract to the extent such are incorporated by reference herein.

NOW, THEREFORE, in consideration of the above premises, the parties hereto agree to the following:

1. This Agreement shall consist of the terms, conditions and covenants of the Supplier Contract, a copy of which is attached hereto as Exhibit "A" (86 pages), and incorporated herein, except as stated in Exhibit "B" (2 pages), attached hereto and made a part hereof.

2. As required pursuant to NRS 332.195, the Supplier hereby authorizes and consents to the City using the terms, conditions and covenants of the Supplier Contract as the basis for this Agreement, and the City hereby agrees in consideration of such authorization and consent, to be bound by the terms, conditions and covenants of the Supplier Contract to the extent that the same are incorporated herein as a part of this Agreement.

3. The Supplier Contract is based upon the estimated procurement figures of the City of Fort Worth. The City hereby agrees to the purchase of supplies and/or services in greater or lesser amounts than estimated in the Supplier Contract. The City reserves the right, however, to terminate this Agreement, and bid or negotiate a new contract, if the procurements by the City under this Agreement are significantly greater than the estimated amounts in the Supplier Contract.

4. This Agreement, and the rights granted hereunder to the City, shall continue in force and effect for the period of time set forth in the Supplier Contract. In the event that the Supplier Contract is terminated for any reason, including the City of Fort Worth failure to exercise any or all of the options granted thereunder, the City shall have the right to continue this Agreement in force and effect despite such termination, and to exercise any and all of the options which the City of Fort Worth fails to exercise thereunder.

5. The City reserves its right to terminate this Agreement and its use of the Supplier Contract for any reason whatsoever and such termination shall be effective ten (10) days after written notice is

provided to the Supplier. The City's exercise of its right to terminate herein shall have no effect on the Supplier Contract between the Supplier and City of Fort Worth.

6. Any change or modification to the Supplier Contract between the Supplier and the City of Fort Worth shall be applicable to the City if so agreed to in writing by the City. In the event that such change or modification adversely impacts the City, the City may elect not to incorporate the change or modification as part of this Agreement.

7. Any notice or other communication given in connection with this Agreement shall be made in writing and either delivered in person, by fax to the telephone number provided below (provided telephonic confirmation of transmittal is received), or via United States Postal Service, overnight courier service, or United Parcel Service to the following person and address:

FOR THE SUPPLIER:	Truman Arnold Companies TAC Energy Daniel McCarty 701 S. Robison Rd. Texarkana, TX 75501 Fax # 918-461-9191
FOR THE CITY:	City of Las Vegas Manager, Purchasing and Contracts 400 Stewart Avenue Las Vegas, Nevada 89101 Fax #: (702) 464-5721

The parties shall provide written notification of any change in the information stated above.

8. The Supplier agrees to maintain the insurance coverage required under the Supplier Contract (City of Fort Worth RFP # 09-0012 section V- Insurance) for the term of this Agreement. The Supplier further agrees to provide to the City, within ten (10) days after execution of this Agreement by the City, certificates of insurance naming the City as an additional insured party thereunder for the insurance coverage under which City of Fort Worth was named as an additional insured party pursuant to the requirements of the Supplier Contract.

9. Unless the content indicates otherwise, the references in the Supplier Contract to the City of Fort Worth shall be understood and interpreted to refer to the City for purposes of this Agreement.

10. This Contract may be executed in counterparts, all such counterparts will constitute the same contract and the signature of any party to any counterpart will be deemed a signature to, and may be appended to, any other counterpart. Executed copies hereof may be delivered by facsimile or e-mail and upon receipt will be deemed originals and binding upon the parties hereto, regardless of whether originals are delivered thereafter.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

CITY OF LAS VEGAS

KATHLEEN C. RAINEY, Manager
Purchasing and Contracts

"City"

ATTEST:

BEVERLY K. BRIDGES, MMC
City Clerk

APPROVED AS TO FORM:

Robert S. Sylvain 5-20-10
Deputy City Attorney Date

Truman Arnold Companies

Title of person signing

"Supplier"

Exhibit B

1.1 Annual Requirements Contract - Ordering, Billing and Payment

a) The following definitions will apply to any Contract awarded as a result of this Bid:

i) *"Blanket Purchase Order"* means a document which contemplates the ordering of goods or services in the future, but which sets forth at the time of its issuance a maximum monetary limit on the amount of goods or services that may be ordered by the City from the Successful Bidder. Issuance of a Blanket Purchase Order does not obligate the City to the purchase of any goods or services. A Blanket Purchase Order will be identified as such on the face of the Purchase Order, and will reference the Bid number.

ii) *"Purchase Order Release"* (or *"Release"*) means a single order issued by the City against a Blanket Purchase Order, which orders a specific quantity of goods or services, and commits the City to pay for those goods or services upon delivery and acceptance. A Release is identified by the original Blanket Purchase Order number, followed by a hyphen ("-") and a sequential number.

b) The City will issue a Blanket Purchase Order subsequent to award of a Contract, and will issue Purchase Order Releases as actual requirements arise.

1.2 Invoices

Invoice(s) shall be submitted to:

Department of Finance and Business Services
City of Las Vegas
Attention: Accounts Payable
400 Stewart Avenue
Las Vegas, NV 89101

The Successful Bidder shall submit a detailed invoice to the City, after shipment of goods or performance of services. All invoices should (i) identify charges against specific Blanket Purchase Order item numbers, (ii) state the date and number of the invoice, (iii) reference the assigned Blanket Purchase Order and Purchase Order Release number, and (iv) provide any other information (e.g., item description, quantity) necessary to ascertain the goods or services for which payment is requested. **Invoices received without a valid purchase order will be returned unpaid.** Upon acceptance of the goods or services by the City and reconciliation of all errors, corrections, and credits, payment will be made within thirty (30) calendar days. Invoices for partial shipments must only include items actually sent in the partial shipments.

1.3 Insurance

Supplier must provide required insurance documentation (city of Fort Worth RFP#09-0012, Section V) to Insurance Tracking Services (ITS) immediately upon notification of selection. Award is conditional upon verification by ITS that all insurance requirements have been met. All policy certificates and endorsements are required to be an agent authorized by that insurer and who is licensed by the State of Nevada. 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 Supplier shall maintain coverage for the duration of this Contract, and any renewal periods, if applicable. The Supplier shall annually provide the ITS with a certificate of insurance as evidence that all insurance requirements have been met. The Supplier and/or insurance carrier shall provide the ITS with a 30 day advance notice of policy modification, cancellation or erosion of insurance limits, sent by certified mail "return receipt requested".

Submit certificates of insurance to:
City of Las Vegas
C/O Insurance Tracking Services, Inc. (ITS)
P.O. Box 21919
Long Beach, CA 90801

Account Manager: Michael Palacios
Phone: (888) 435-2955 ext. 503 ▯ Fax: 562-435-2999
Email: michael.palacios@instracking.com

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 ITS if so requested.

1.4 Indemnification

a) In addition to the indemnification requirements set forth in City of Fort Worth RFP# 09-0012 Paragraph 26.0 Section II Standard Terms and Conditions, the Supplier shall protect, indemnify and hold harmless the City, its officers, employees, agents, and consultants (collectively herein the "City") from any and all claims, liabilities, damages, losses, suits, actions, decrees, and judgments including, attorney's fees, court costs or other expenses of any and every kind or character (collectively herein the "Liabilities") which may be recovered from or sought against the City, as a result of, by reason of, or as a consequence of, any act or omission, negligent or otherwise, on the part of the Supplier, its officers, employees, or agents in the performance of the terms, conditions and covenants of the Contract, regardless of whether the Liabilities were caused in part by the City.

b) If a third party claim against the City for negligent performance by the Supplier is within the limits of its liability insurance and the insurance Supplier has accepted the City's tender of defense, then the City will pay the Supplier what is due and owing to them, within the payment method specified in this Contract. However, if the claim is greater than the coverage amount, the City, for its protection, may retain any money due and owing the Supplier under this Contract, until the claim has been resolved. In the event no money is due and owing, the surety, if required, of the Supplier, may be held until all of the Liabilities have been settled and suitable evidence to that effect furnished to the City.

c) It is expressly agreed that the Supplier shall defend the City, against the Liabilities and in the event that the Supplier fails to do so, the City shall have the right, but not the obligation, to defend the same and to charge all direct and incidental costs, including attorney's fees and court costs, to the Supplier.

1.5 F.O.B Point

The delivery point shall be the City of Las Vegas, the present delivery points, fuel type, number of tanks, and capacity are as follows:

<u>FUEL LOCATIONS & TANK SIZES</u>

Delivery Location	Unleaded Fuel
1. East Fleet Service Center 3100 E. Bonanza Rd.	12,000 Gal. Cap. Two (2) Tanks
2. Satellite Garage 4357 Vegas Drive	12,000 Gal. Cap.
3. Water Pollution Control Facility 6005 E. Vegas Valley Dr.	2,500 Gal. Cap.
4. Fire Station #1 500 N. Casino Center Blvd.	10,000 Gal. Cap Two (2) Tanks
5. West Fleet Service Center 2950 Ronemus Dr.	12,000 Gal. Cap. Two (2) Tanks
6. Floyd Lamb Park 9200 Tule Springs Rd.	500 Gal. Cap.

The owner reserves the right to delete or add facilities throughout the term of this contract to include renewal options.