

BLANKET SERVICES AGREEMENT FOR PARTNERING FACILITATION

THIS AGREEMENT is made and entered into this _____ day of _____, _____, by and between the City of Las Vegas (herein the "City"), a municipal corporation within the State of Nevada, whose address is 400 Stewart Avenue, Las Vegas, Nevada, 89101, and **Total Quality Resources Corporation** (the "Consultant"), a Corporation, whose address is **3425 Cliff Shadows Parkway, Suite 130, Las Vegas Nevada 89129**.

WITNESSETH:

WHEREAS, the City intends to construct various related public works related projects as part of the City's Capital Improvement Program (herein individually and collectively the "Project" and "Projects", respectively) which may be known or unknown to the City at the time of the execution of this Agreement, and

WHEREAS, with the execution of this Agreement, the parties hereto intend to give to the City the flexibility and ability to determine what services are to be provided by the Consultant on a project by project basis through the issuance of a Project Task Order (herein defined in Section 1.01) thereby eliminating the need of executing separate agreements with the Consultant for each Project.

WHEREAS, the City desires to retain the Consultant who will be responsible for providing the professional services more fully described below as specified in the Project Task Order issued in connection with a specific Project, and

WHEREAS, the Consultant possesses the special knowledge, skills and expertise to perform the services set forth below within the time required under this Agreement.

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

SECTION ONE CONSULTANT RESPONSIBILITIES

1.01 Description of Consultant's Services. For the compensation set forth in Section Six (Compensation and Terms of Payment), the Consultant hereby agrees to perform the basic services set forth in the Scope of Services and to provide the submittals set forth in the Required Submittals, Exhibits A and B attached hereto and incorporated herein as a part of this Agreement, for each of the specific projects identified by the City. In addition to the basic services, if so requested by the City for a specific project, the Consultant agrees to provide the additional services set forth in the Compensation Schedule, Exhibit C attached hereto and incorporated herein as a part of this Agreement. For each project whose services of the Consultant are needed by the City, the City will issue a Project Task Order on the form attached hereto as Exhibit E, attached hereto and incorporated herein as a part of this Agreement, which details the basic services, submittals and, if any, the additional services to be provided by the Consultant for the identified project.

1.02 Designation of Consultant Representative. The Consultant hereby appoints the individual identified in the Key Personnel List, Exhibit D attached hereto, as its Project representative (the "Consultant Representative"), who is authorized to act on behalf of the Consultant. The Consultant Representative shall serve as the point of contact concerning the performance of this Agreement. The Consultant Representative is responsible for ensuring that the services required under this Agreement and each Project Task Order are performed only by the personnel identified in the Key Personnel List. If any person, or sub-consultant expected to provide any of the services required herein, is objectionable to the City for any reason, the Consultant shall, without additional compensation, replace such person or sub-consultant with someone acceptable to the City. If the Consultant fails to make an acceptable replacement within thirty (30) days, the City may terminate this Agreement for default as provided in Section 10.04 of this Agreement.

If the Consultant's personnel are unable to complete their responsibilities for any reason under this Agreement, or the Consultant desires for any reason to substitute personnel originally 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 not be in the interest of the City or the Project.

1.03 Correspondence Review. The Consultant Representative shall furnish the City Representative a copy of each correspondence, if any, sent to any contractor involved with the Project, or to any regulatory agency.

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

SECTION TWO CITY RESPONSIBILITIES

2.01 Designation of 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 Agreement. The City Representative is authorized to transmit instructions, receive information, interpret and define the City's policies and decisions concerning the services to be provided by the Consultant. The City Representative is not authorized to change or waive any of the provisions set forth in Sections 1.01 through 10.20 of this Agreement.

2.02 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 within 5 business days of receipt of such documents.

2.03 Cooperation with Consultant. The City, its officers and employees, will cooperate with the Consultant in the performance of this Agreement 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 the Consultant with access onto the Project site as may be required in order to perform the services under this Agreement.

SECTION THREE CHANGES TO CONSULTANT'S SERVICES

3.01 Requested Changes. The City may at any time, by written order, make a change in the services to be performed by the Consultant under this Agreement.

3.02 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 Agreement, an equitable adjustment shall be made in the compensation to be paid to the Consultant under Section Seven, and this Agreement 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 10.01 of this Agreement. 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.

SECTION FOUR ADDITIONAL SERVICES OF CONSULTANT

4.01 Additional Services. 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 Seven of this Agreement.

4.02 Attendance at Meetings or Public Hearings. The Consultant shall notify the City in advance of any 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 Agreement.

SECTION FIVE TERM OF AGREEMENT

5.01 Term. This Agreement shall commence on the day it is approved by the City (which date shall be inserted in the introductory paragraph of this Agreement) and shall remain in force and effect for two (2) years thereafter unless terminated earlier pursuant to Section 10.03 or 10.04 of this Agreement. Such termination shall not release either party

from any of its continuing obligations under this Agreement. The parties may extend this Agreement for a period of one (1) year by mutual agreement.

5.02 Disputes. This Section shall not be construed to preclude the filing of any dispute arising out of the performance of this Agreement 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 Agreement or in connection with the subject matter hereof, would otherwise accrue under the statutes of limitation or doctrines of law.

SECTION SIX COMPENSATION AND TERMS OF PAYMENT

6.01 Compensation: Basic Services. For the services set forth in the Scope of Services, the City agrees to pay the Consultant at the hourly rates set forth in the Consultant Hourly Rates Section of the Compensation Schedule, Exhibit "C" attached hereto and incorporated herein as a part of this Agreement. The amount of compensation to be paid to the Consultant for the basic services will be set forth as a not to exceed amount in the Project Task Order issued for a specific project. The payment will be made after an invoice is submitted to the City in accordance with Section 6.04 of this Agreement.

6.02 Hourly Compensation: Additional Services. For any services not set forth in the Scope of Services, the City shall pay to the Consultant the fixed fee set forth in the Additional Services Rates Section of the Compensation Schedule, Exhibit "C" attached hereto, provided prior written approval for such services is given by the City Representative. The amount of compensation to be paid to the Consultant for the additional services will be set forth as a not to exceed amount in the Project Task Order issued for a specific project. The payment will be made after an invoice is submitted to the City in accordance with Section 6.04 of this Agreement.

6.03 Compensation: Reimbursable Expenses. The Consultant agrees that all of its direct and indirect expenses are included in the compensation provided for the Basic Services and Additional Services set forth above. Reimbursable expenses are not allowed under this Agreement.

6.04 Payment Invoicing. The Consultant must submit an invoice for payment for the services provided by the Consultant based on the manner or method of payment set forth in the Project Task Order, Exhibit E attached hereto and incorporated herein as a part of this Agreement.

(a) The Consultant shall submit an invoice to the City in accordance with the payment schedule set forth in Paragraph B-3 (Prices/Costs) above. All invoices should identify the following items:

- (i) the date of the invoice and invoice number;
- (ii) the purchase order number;
- (iii) Agreement number and project task order number
- (iv) the Agreement item against which charges are made;
- (v) performance dates covered;
- (vi) receipts for reimbursable expenses or travel expenses, if permitted; and
- (vii) a copy of the Progress Report, signed or approved by City's Project Manager.

Upon reconciliation of all errors, corrections, credits, and disputes, payment to the Consultant will be made in full within 30 calendar days. **Any invoice received without a valid purchase order number will be returned unpaid to the Consultant.** The Consultant shall submit the original invoice to:

Department of Finance and Business Services
ATTN: Accounts Payable
City of Las Vegas
400 Stewart Ave.
Las Vegas, NV 89101 – 2986

(b) The Consultant shall forward a copy of the invoice to the City's Project Manager identified in Paragraph 9.02(a).

6.05 Final Payment. Upon completion of the services required under this Agreement, and acceptance thereof by the City (which acceptance will not be unreasonably withheld), the Consultant shall, within sixty (60) days of the City's acceptance, submit a final invoice to the City in the manner prescribed in 6.04, above.

SECTION SEVEN PROPOSAL AND PERFORMANCE SCHEDULE

7.01 Proposal. Subsequent to the execution of this Agreement, the City will notify the Consultant of the need for its services in connection with a specific project of the City. Within 5 business days after the receipt of such notification, the Consultant shall submit to the Project Manager a cost proposal which shall include all cost elements required to perform the services requested by the City and a performance schedule for such services. If accepted by the Project Manager, the cost proposal and performance schedule shall be incorporated into a duly issued Project Task Order to the Consultant, which Project Task Order and requirement set forth therein shall become a part of this Agreement.

7.02 Performance. The Consultant shall perform and complete the services required under this Agreement and each duly issued Project Task Order. If performance of services is delayed, or submittals are not delivered by the deadline, outlined in the Project Task Order, the Consultant shall notify the City Representative in writing of the reason for the delay and include a plan which brings the Consultant's performance into compliance with the requirements of the Project Task Order.

SECTION EIGHT AUDIT: ACCESS TO RECORDS

8.01 Records. The City shall have the right to audit the Consultant's books, records and other documents directly pertinent to the performance of this Agreement. The Consultant agrees to maintain books, records and other documents directly pertinent to performance of this Agreement 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.

8.02 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.

8.03 Period of Maintenance. The books, records and other documents created under this Agreement shall be maintained for three (3) years after the date of the final payment for the services under this Agreement. In addition, those records and other documents which relate to any arbitration, litigation or the settlement of any claim arising out of this Agreement, 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.

8.04 Sub-contract Provisions. The Consultant agrees to include Sections 9.01 through 9.03 of this Agreement in all its sub-contracts directly related to performance of services specified in this Agreement, which are in excess of \$10,000.

SECTION NINE GENERAL PROVISIONS

9.01 Legal Notice [CAO-7/24/08]

(a) All legal notices required pursuant to the terms and conditions of this Agreement shall be in writing, unless an emergency situation dictates otherwise. Any notice required to be given under the terms of this Agreement shall be deemed to have been given when:

- (i) received by the party to whom it is directed by hand delivery or personal service, or
- (ii) transmitted by facsimile with confirmation of transmission, or
- (iii) sent by U.S. mail via certified mail-return receipt requested at the following addresses:

FOR THE CITY: City of Las Vegas
Manager, Purchasing and Contracts
City Hall, First Floor
400 Stewart Avenue
Las Vegas, Nevada 89101-2986
Fax: (702) 384-9964

FOR THE CONSULTANT: Total Quality Resources Corporation
Ron M. Portaro
7958 Lookout Rock Circle
Las Vegas, Nevada 89129
Ph. 702-610-1919
Fax: 702-655-5860

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

(c) An original signed copy, via U. S. Mail, shall follow facsimile transmissions.

(d) For purposes of this Agreement, legal notice shall be required for all matters involving potential termination actions, litigation, indemnification, and unresolved disputes. This does not preclude legal notice for any other actions having a material impact on the Agreement.

(e) Routine correspondence should be directed to the Project Manager or the Consultant Representative, as appropriate.

9.02 Project Manager/Consultant Representative [CAO-7/24/08]

(a) The City designates John O'Connell, P.E., as the Project Manager for this Agreement. The City will provide written notice to the Consultant, should there be a subsequent Project Manager change. The Project Manager will be the Consultant's principal point of contact at the City regarding any matters relating to this Agreement, will provide all general direction to the Consultant regarding Agreement performance, and will provide guidance regarding the City's goals and policies. The Project Manager is not authorized to waive or modify any material scope of work changes or terms of the Agreement.

(b) The Consultant designates Ron Portaro as the Consultant Representative for this Agreement. The Consultant will provide written notice to the City, should there be a subsequent Consultant Representative change. The City has the right to assume that the Consultant Representative has full authority to act for the Consultant on all matters arising under or relating to this Agreement.

9.03 Warranty: Services [CAO-7/24/08] The Consultant warrants that the services shall be performed in full conformity with this Agreement, with the professional skill and care that would be exercised by those who perform similar services in the commercial marketplace, and in accordance with accepted industry practice. In the event of a breach of this warranty and/or in the event of non-performance and/or failure of the Consultant to perform the services in accordance with this Agreement, the Consultant shall, at no cost to the City, re-perform or perform the services so that the services conform to the warranty.

9.04 Intellectual Property Rights [CAO-7/24/08] All deliverables produced under this Agreement, as well as all data, notes, and documentation collected on behalf of the City, are exclusively the property of the City.

9.05 Licenses/Registrations [CAO-7/24/08] During the entire performance period of this Agreement, the Consultant shall maintain all federal, state, and local licenses, certifications and registrations applicable to the work performed under this Agreement, including maintaining an active City of Las Vegas business license.

9.06 Order of Precedence [CAO-7/24/08] In the event of a conflict between the specific language set forth in Sections 1 through 10 of this Agreement and any Attachment or Exhibit, the specific language in Sections 1 through 10 shall prevail. Any exception to this order of precedence will be addressed through specific language elsewhere in Sections 1 through 10.

SECTION 10 GENERAL CLAUSES

10.01 *Disputes* [CAO-7/25/08]

(a) For each claim or dispute arising between the parties under this Agreement, the parties shall attempt to resolve the matter through escalating levels of management. In the event the matter cannot be successfully resolved in this manner, the City is granted the right, regardless of which party is asserting the claim or dispute, to determine between arbitration or litigation as the forum in which the party desiring to proceed further shall file to resolve the claim or dispute. For any and all claims or disputes asserted by the Consultant, the Consultant shall notify the City of its intent to proceed further with the claim or dispute, and in response thereto, the City shall notify the Consultant as to its selected forum for resolution. For any and all claims or disputes asserted by the City, the City shall notify the Consultant in the notice of its intent to proceed with further resolution and in the same notice as to whether it has selected arbitration or litigation as the forum to resolve the claim or dispute. In the event arbitration is the designated forum, such arbitration shall be binding on the parties.

(b) If arbitration is selected by the City as the forum for further resolution, the claim or dispute shall be filed with the Nevada Arbitration Association or the American Arbitration Association under its then current Commercial Arbitration Rules, Expedited Procedures, regardless of the amount of the claim or dispute.

(c) The laws of the State of Nevada shall govern this Agreement and the venue for purposes of such litigation or arbitration shall be in the City.

10.02 *Notice of Delay* [CAO-7/24/08]

(a) If the timely performance of this Agreement is jeopardized by the non-availability of City provided personnel, data, or equipment, the Consultant immediately shall notify the City in writing of the facts and circumstances that are contributing to such delay. Upon receipt of this notification, the City will advise the Consultant in writing of the action which will be taken to remedy the situation.

(b) The Consultant shall advise the City in writing of an impending failure to meet established milestones or delivery dates based on the Consultant's failure to perform. Notice shall be provided as soon as the Consultant is aware of the situation; however, such notice shall not relieve the Consultant from any existing obligations regarding performance or delivery.

10.03 *Termination for Convenience* [CAO-7/24/08]

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

10.04 *Termination for Default* [CAO-11/9/09]

(a) The City may, by written notice of default to the Consultant, terminate this Agreement in whole or in part if the Consultant fails to:

- (i) Perform the services under Section C (Statement of Work), including, if applicable, delivering any required software, goods, or documentation within the time specified in this Agreement or any extension;
- (ii) Make progress, so as to endanger performance of this Agreement; or
- (iii) Perform any of the other provisions of this Agreement.

(b) The City's right to terminate this Agreement under (a)(ii) and (a)(iii) above, may be exercised if the Consultant does not cure such failure within ten calendar days (or more if authorized by the City) after notice, specifying the failure, is provided pursuant to the Paragraph 9.011 (Legal Notice) of this Agreement.

(c) If the City terminates this Agreement for default in whole or in part, it may acquire, under reasonable terms and in the manner the City considers appropriate, services or goods similar to those terminated, and the Consultant shall be liable to the City for any excess costs for those services or goods. However, the Consultant shall continue the work not terminated.

(d) The Consultant shall not be liable for any excess costs if the failure to perform the Agreement arises from circumstances beyond the control and without the fault or negligence of the Consultant. These circumstances are limited to such causes as (1) acts of God or of the public enemy, (2) acts of governmental bodies, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) labor strikes, (8) freight embargoes, or (9) unusually severe weather. The time of performance of the Consultant's obligations under this Agreement shall be extended by such period of enforced delay; provided, however, that such reasonably extended time period shall not exceed 60 days. If the foregoing circumstances result in a delay greater than 60 days, the City may terminate the affected portion of the Agreement pursuant to the terms of Paragraph 10.03 (Termination for Convenience).

(e) Either party may terminate this Agreement, in whole or in part, if the other party becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or if a receiver or trustee in bankruptcy is appointed for the other party, or if any proceeding in bankruptcy, receivership, or liquidation is instituted against the other party and is not dismissed within 30 days following commencement thereof.

(f) The City retains the right to terminate for default immediately should the Consultant fail to maintain the required levels of insurance, fail to comply with applicable local, state, and Federal statutes governing performance of these services, or fail to comply with statutes involving health or safety.

(g) In the event that the City fails to perform any of its obligations required under this Agreement, and the City does not remedy the failure after notice thereof is provided to the City by the Consultant pursuant to Paragraph 9.01 (Legal Notice) above, the Consultant shall have the right to treat the failure as a claim or dispute subject to the resolution provisions of Section 10.01 (Disputes) of this Agreement. During the period of such resolution, the Consultant shall continue with its performance under the Agreement.

10.05 Insurance: [CAO-1/12/09]

(a) The Consultant shall procure and maintain, at its own expense, during the entire term of the Agreement, the following coverage(s):

(b) Commercial General Liability Insurance (bodily injury, property damage) with respect to the Consultant's agents assigned to the activities performed under this Agreement in a policy limit of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate, for bodily injury (including death), 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.

(c) Consultant must provide required insurance documentation 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 issued by an agent authorized by that insurer and 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 Agreement number and the Agreement description. The Consultant shall maintain coverage for the duration of this Agreement, and any renewal periods, if applicable. The Consultant shall annually provide ITS with a certificate of insurance as evidence that all insurance requirements have been met. The Consultant and/or insurance carrier shall provide the City with a 30 day advance notice of policy modification, cancellation or erosion of insurance limits, sent by certified mail "return receipt requested".

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 City if so requested.

(d) The City, its officers and employees shall be named as additional insureds and such notation shall appear on the certificate of insurance furnished by the Consultant's insurance carrier. 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 rating of A VII, 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.

(e) All deductibles and self-insurance retentions shall be fully disclosed in the certificate of insurance. No deductible or self-insured retention may exceed \$10,000.00 without the prior written approval of the City.

(f) 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 Paragraph 10.04, terminate the Agreement if the breach is not remedied and, if permitted, assess liquidated damages, or (ii) purchase replacement insurance and withhold the costs or premium payments made from the payments due to the Consultant or charge the replacement insurance costs back to the Consultant.

(g) Any subcontractor or sub-consultant 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.

(h) The Consultant is encouraged to purchase any additional insurance as it deems necessary.

(i) 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.

(j) The policies required in 10.05(a) i-ii shall have a Waiver of Subrogation provision endorsement in favor of the City of Las Vegas.

10.06 Indemnification [CAO-7/24/08]

(a) In addition to the insurance requirements set forth in Paragraph 10.05 (Insurance), the Consultant shall protect, indemnify and hold harmless the City, its officers, employees, agents, and consultants (collectively herein the "City") harmless 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 Consultant, its officers, employees, or agents in the performance of the terms, conditions and covenants of the Agreement, 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 Consultant is within the limits of its liability insurance and the insurance company has accepted the City's tender of defense, then the City will pay the Consultant what is due and owing to them, within the payment method specified in this Agreement. However, if the claim is greater than the coverage amount, the City, for its protection, may retain any money due and owing the Consultant under this Agreement, until the claim has been resolved. In the event no money is due and owing, the surety, if required, of the Consultant, 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 Consultant shall defend the City, against the Liabilities and in the event that the Consultant 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 Consultant.

10.07 Assignment [CAO-7/24/08] Neither party may assign their rights nor delegate their duties under this Agreement without the written consent of the other party. Such consent shall not be withheld unreasonably. Any assignment or delegation shall not relieve any party of its obligations under this Agreement.

10.08 Waiver [CAO-7/24/08] Waiver of any terms of this Agreement shall not be valid unless it is in writing signed by each party. The failure of the City to enforce any of the provisions of this Agreement, or to require performance of any of the provisions herein, shall not in any way be construed as a waiver of such provisions or to affect the validity of any part of this Agreement, or to affect the right of the City to thereafter enforce each and every provision of this Agreement. Waiver of any breach of this Agreement shall not be held to be a waiver of any other or subsequent breach of this Agreement.

10.09 Taxes/Compliance with Laws [CAO-7/24/08]

(a) The City is exempt from paying Sales and Use Taxes under the provisions of Nevada Revised Statutes 372.325(4), and Federal Excise Tax, under Registry Number 88-87-0003k. The Consultant shall pay all taxes, levies, duties and assessments of every nature and kind, which may be applicable to any work under this Agreement. The Consultant shall make any and all payroll deductions required by law. The Consultant agrees to indemnify and hold the City harmless from any liability on account of any and all such taxes, levies, duties, assessments and deductions.

(b) The Consultant, in the performance of the obligations of this Agreement, shall comply with all applicable laws, rules and regulations of all governmental authorities having jurisdiction over the performance of this Agreement including, but not limited to, the Federal Occupational Health and Safety Act, and all state and federal laws prohibiting and/or relating to discrimination by reason of race, sex, age, religion or national origin.

10.10 Consultant Warranties. The Consultant hereby represents and warrants that 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 Disclosure of Ownership/Principals, Attachment 1 attached hereto and incorporated herein as a part of this Agreement, 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 Disclosure of Ownership/Principals form, the requirements of this Section shall be deemed satisfied. During the term of this Agreement, the Consultant shall notify the City in writing of any material change in the above disclosure on Disclosure of Ownership/Principals form within fifteen (15) days of such change.

10.11 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 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 Agreement 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 Agreement.

10.12 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.

10.13 Applicable Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of Nevada, County of Clark.

10.14 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 Agreement 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.

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

10.16 Confidentiality. The Consultant shall treat the information relating to the Project, which has been produced by the Consultant or provided by the City, as confidential and proprietary 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 sub-consultant 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.

10.17 Modification. All modification or amendments to this Agreement are null and void unless reduced in writing and signed by the parties hereto.

10.18 Prohibition Against Contingent Fees. The Consultant warrants that no person or entity has been employed or retained to solicit or secure this Agreement 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 Agreement 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.

10.19 Counterparts; Electronic Delivery. This Agreement may be executed in counterparts, all such counterparts will constitute the same Agreement 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.

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

ATTEST

Beverly K. Bridges, MMC, City Clerk Date

CITY OF LAS VEGAS

By _____
Kathleen C. Rainey, Manager, Purchasing & Contracts

APPROVED AS TO FORM

John S. Ridilla 6/29/11
Deputy City Attorney Date

John S. Ridilla
Deputy City Attorney

CONSULTANT

By _____
Ron M. Portaro, Total Quality Resources Date

LIST OF EXHIBITS

Any conditions between the proceeding Agreement and the following Exhibits shall be governed by the Agreement.

EXHIBIT A	SCOPE OF SERVICES
EXHIBIT B	REQUIRED SUBMITTALS
EXHIBIT C	COMPENSATION SCHEDULE
EXHIBIT D	KEY PERSONNEL LIST
EXHIBIT E	PROJECT TASK ORDER
ATTACHMENT 1	DISCLOSURE OF PRINCIPALS
ATTACHMENT 2	AFFIDAVIT OF SOLE PROPRIORTOR
ATTACHMENT 3	AFFIDAVIT OF REJECTION OF COVERAGE

EXHIBIT "A"

SCOPE OF SERVICES

GENERAL: The Consultant shall provide the services needed to accomplish facilitation of the City's Capital Projects, which services may encompass some or all of the following:

- (a) Partnering meeting of approximately 4 hours, the goal of which is to develop an understanding to the Project issues and concerns and to develop a dispute resolution procedure;
- (b) Quarterly follow-up workshops, the goal of which is to identify and resolve issues and problems arising during the Project; and
- (c) On-call Partnering Facilitation, the goal of which is to facilitate the resolution of a particular issue, problem or situation

The specific project, and a more detailed description of the facilitation services to be provided by the Consultant, will be set forth in the individual Project Task Order, Exhibit E attached hereto.

EXHIBIT "B" REQUIRED SUBMITTALS

GENERAL

Deliverables

- (a) The Consultant shall provide a sign-in sheet, Agenda and Minutes for deliverables 1 through 3.
- (b) Additional deliverables may be delineated in an individual Task Order, dependent upon the needs of the City.
- (c) All deliverables shall be submitted to the Project manager on acid-free white paper, 8-1/2 x 11 inches, suitable for photocopying and bound in booklet format, as appropriate.
- (d)

<u>Item No.</u>	<u>Description</u>
1.	Partnering Workshop
2.	Quarterly Follow-Up Workshop
3.	On-Call Partnering Facilitation
4.	Progress Reports, as defined in the Individual Task Order
- (e) It is understood that the City may make and distribute copies of the documentation, reports and meeting minutes as necessary in connection with the Project without incurring obligation for additional compensation.
- (f) Throughout the course of each Project Task Order, the Consultant shall brief the City Representative on a regular and frequent basis about the progress of the Project. Unless specified otherwise in the Project Task Order, briefings shall occur no less frequently than monthly and shall accompany invoices for payment. The briefings shall be a written report and shall include the following as appropriate to the Project the status of and impacts to the Project schedule, milestones, budget, land acquisitions, right of way dedications, easements, utility and regulatory agency review status, and all Project activity since the last report current issues, and a forecast of upcoming activity.

EXHIBIT "C" COMPENSATION SCHEDULE

A. CONSULTANT HOURLY RATES

The following hourly rates are to be used as the basis for negotiation of added and reduce services. These hourly rates are valid for the duration of the Project and include salary costs, overhead, administration and profit. The overhead included in these rates covers 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 facility, equipment, and IT maintenance personnel.

CLASSIFICATION	RATE	UNIT
Lead Facilitator	\$200	Per Hour
Support Facilitator	\$150	Per Hour
Clerical	\$45	Per Hour

B. ADDITIONAL SERVICES RATES

The cost of the following potential future Additional Services have been negotiated as of the date of this Agreement.

ADDITIONAL SERVICES	SUBMITTALS	SCHEDULE IMPACT	FIXED FEE
None authorized or anticipated as of the date of this Agreement			\$0

These fees are valid for the duration of the Project and include salary costs, equipment, overhead, administration and profit.

C. REIMBURSABLE EXPENSES

The following Reimbursable Expenses are allowed: **None authorized or anticipated as of the date of this Agreement**

EXHIBIT “D” KEY PERSONNEL LIST

Unless stated otherwise in the Project Task Order, the following personnel will be assigned by the Consultant to work on the Project Task Order work. All changes require City approval.

CONSULTANT REPRESENTATIVE: Ron M. Portaro

LEAD FACILATOR: Ron M. Portaro

SUPPORT FACILATOR: Curtis Scheppmann/Levi Parker

CLERICAL: Nancy Hallahan/Leah Portaro

EXHIBIT "E" PROJECT TASK ORDER

(Number E-____)

Blanket Agreement Project Name:
Blanket Agreement Date:
Blanket Agreement Maximum Not-to-Exceed Fee: \$100,000
Total Aggregate Fee Commitments Prior to this Task Order:
Amount of This Project Task Order:
Remaining Amount on Blanket Agreement:
Consultant's Business Name:

Whereas the City and Consultant have signed a Blanket Agreement for the Consultant to provide professional services described in the Agreement for the above named project(s), containing an not-to-exceed maximum aggregate fee that has not been fully utilized, and the City desires to utilize the Blanket Agreement to provide services for the following particular specific Project:

Project Name:
Location:
Description/Additional Instructions:
Estimated Budget:

The parties do hereby agree to the following additional terms and conditions for this Project Task Order: **State "None" if no additional terms and conditions are required.**

Section A – Scope of Services:Section B – Required Submittals:

Section C – Compensation:Section D – Key Personnel List:

Upon execution hereof, this Project Task Order shall be attached to the Blanket Agreement.

Dated this _____ day of _____, _____.

City
By: _____

Consultant
By: _____

ATTACHMENT 1

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 or agreement 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.

2. Policy

In accordance with Resolution 79-99 and 105-99 adopted by the City Council, Contracting Entities seeking to enter into certain contracts or agreements 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 or agreement.

3. Instructions

The disclosure required by the Resolutions referenced above shall be made through the completion and execution 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. An Officer or other official authorized to contractually bind the Contracting Entity shall sign and date the Certificate, and such signing shall be notarized.

4. Incorporation

This Certificate shall be incorporated into the resulting contract or agreement, if any, between the City and the Contracting Entity. Upon execution of such contract or agreement, 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 or agreement, and/or a withholding of payments due the Contracting Entity.

Block 1	<u>Contracting Entity</u>
Name Total Quality Resources Corporation	
Address 3455 Cliff Shadows Parkway, Las Vegas NV 89129	
Telephone 702-610-1919	
EIN or DUNS 88-0318587	

Block 2	<u>Description</u>
Facilitation Partnering / Dispute Resolution Professional Services	
RFP #	

Block 3	<u>Type of Business</u>
☐ Individual ☐ Partnership ☐ Limited Liability Company ☒ Corporation	

CERTIFICATE – DISCLOSURE OF OWNERSHIP/PRINCIPALS
(CONTINUED)

Block 4		Disclosure of Ownership and Principals	
In the space below, the Contracting Entity must disclose all principals (including partners) of the Contracting Entity, as well as persons or entities holding more than one-percent (1%) ownership interest in the Contracting Entity.			
	FULL NAME/TITLE	BUSINESS ADDRESS	BUSINESS PHONE
1.	Ron/Michael Portaro	3455 Cliff Shadows Parkway Suite 150 Las Vegas NV 89129	702-610-1919
2.	Nancy Hallahan Portaro	3455 Cliff Shadows Parkway Suite 150 Las Vegas NV 89129	702-610-1919
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

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

Block 5		Disclosure of Ownership and Principals - Alternate	
If the Contracting Entity, or its principals or partners, are required to provide disclosure (of persons or entities holding an ownership interest) under federal law (such as disclosure required by the Securities and Exchange Commission or the Employee Retirement Income Act), a copy of such disclosure may be attached to this Certificate in lieu of providing the information set forth in Block 4 above. A description of such disclosure documents must be included below.			
Name of Attached Document:		<u>N/A</u>	
Date of Attached Document:		Number of Pages: _____	

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.

R. M. Portaro

1-10-2011 Name: RMP

Subscribed and sworn to before me this 10th day of

January, 2011
Gail D. Wilkinson
Notary Public



ATTACHMENT 2
AFFIDAVIT OF SOLE PROPRIETOR

I, ROJ M. Paez, on behalf of my company, MG & Associates

being duly sworn, depose and declare:

1. I am a Sole Proprietor;
2. I will not use the services of any employees in the performance of this contract, identified as Bid No. _____ / Contract No. _____ / CBE No. 110225-EV, entitled Partnering Facilitation;
3. I have elected to not be included in the terms, conditions, and provisions of NRS Chapters 616A-616D, inclusive; and
4. I am otherwise in compliance with the terms, conditions, and provisions of NRS Chapters 616A-616D, inclusive.

I release the City of Las Vegas from all liability associated with claims made against me and my company in the performance of this contract, that related to compliance with NRS Chapters 616A-616D, inclusive.

Signed this 8th day of June, 2011

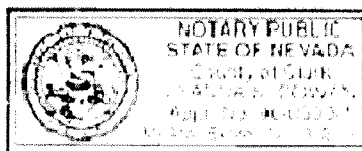
Signature [Signature]

State of Nevada)
) ss.
County of Clark)

Signed and sworn to (or affirmed) before me on this 8th day of June, 2011 by ROJ M. Paez (name of person making statement)

Notary Signature [Signature]

STAMP AND SEAL



ATTACHMENT 3
AFFIDAVIT OF REJECTION OF COVERAGE

**AFFIDAVIT OF REJECTION OF COVERAGE
FOR WORKERS' COMPENSATION
UNDER NRS 616B.627 AND NRS 617.210**

In the State of Nevada, County of Clark, RON PORTANO, being duly sworn, deposes and says:

1. I make the following assertions pursuant to NRS 616B.627 and NRS 617.210.
2. I am a sole proprietor who will not use the services of any employees in the performance of this Contract with the city of Las Vegas.
3. In accordance with the provisions of NRS 616B.659, I have not elected to be included within the terms, conditions and provisions of chapters 616A to 616D, inclusive, of NRS, relating thereto.
4. I am otherwise in compliance with the terms, conditions and provisions of chapters 616A to 616D, inclusive, of NRS.
5. In accordance with the provisions of NRS 617.225, I have not elected to be included within the terms, conditions and provisions of chapter 617 of NRS.
6. I am otherwise in compliance with the terms, conditions and provisions of chapter 617 of NRS.
7. I acknowledge that the city of Las Vegas will not be considered to be my employer or the employer of my employees, if any; and that the city of Las Vegas is not liable as a principal contractor to me or my employees, if any, for any compensation or other damages as a result of an industrial injury or occupational disease incurred in the performance of this Contract.

I, RON PORTANO, do here swear under penalty of perjury that the assertions of this affidavit are true.

Signed this 22 day of JUNE, 20 11.

Signature [Signature]

State of Nevada

County of County

Signed and sworn to (or affirmed) before me on this 22nd day of June, 20 11,
by Ron Portano (name of person making statement).

Notary Signature Beth Hurley

STAMP AND SEAL

