

ENGINEERING DESIGN SERVICES AGREEMENT FOR MATERIAL TESTING CONSTRUCTION INSPECTION & GEOTECHNICAL

THIS CONTRACT is made and entered into this _____ day of _____, by and between the CITY OF LAS VEGAS, a municipal corporation within the State of Nevada (herein the "City") whose address is 333 North Rancho Drive, Las Vegas, Nevada 89106, and AZTECH INSPECTIONS AND TESTING, LLC, (the "Consultant"), a Limited Liability Company, whose address is 4700 Copper Sage Street #A, Las Vegas, Nevada 89115.

WITNESSETH:

WHEREAS, the City intends to construct the MATERIAL TESTING CONSTRUCTION INSPECTION & GEOTECHNICAL (herein the "Project"); and

WHEREAS, the City desires to retain the Consultant who will be responsible for providing the professional services more fully described below 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 is in compliance with NRS 623.349 for architects, interior designers, and residential designers and NRS 623A.250 for landscape architects, which requires that control and 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 special knowledge, skills and expertise 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 in Sections One through Ten hereof.

SECTION ONE CONSULTANT RESPONSIBILITIES

1.01 Description of Consultant's Services. For the compensation set forth in Section Seven, 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, and incorporated herein as a part of this Contract and to provide the submittals described in the Required Submittals Exhibit "B," attached hereto.

1.02 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.

1.03 Document Review. The Consultant shall review each document prepared by the Consultant and its subconsultants including, without limitation, the plans, drawings and specifications 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.

1.04 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.

1.05 Designation of Consultant's Representative. 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.

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.

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.

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 10.03 of this Contract.

1.06 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.

1.07 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.

1.08 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 Agreement, the Consultant may submit a request for an Adjustment in Compensation pursuant to Section 3.02.

SECTION TWO CITY RESPONSIBILITIES

2.01 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 1.01 through 10.24 of this Contract.

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 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.

2.03 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.

2.04 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.

SECTION THREE CHANGES TO CONSULTANT'S SERVICES

3.01 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 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 Contract, an equitable adjustment shall be made in the compensation to be paid to the Consultant under Section Seven, or in the performance schedule under Section Eight, 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 10.20B and 10.20C 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.

SECTION FOUR ADDITIONAL SERVICES OF CONSULTANT

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

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

SECTION FIVE SUBCONSULTANT AGREEMENT

5.01 Subconsultant Provisions. If, with the approval of the City as required pursuant to Section 10.07, the Consultant enters into an agreement with a subconsultant for the performance of any of its obligations under this Contract, the Consultant agrees to include in each subconsultant agreement a provision that:

(i) 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,

(ii) the subconsultant shall have no more rights against the City than that of the Consultant,

(iii) 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

(iv) 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.

SECTION SIX TERM OF AGREEMENT

6.01 Term. 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 one (1) year, with three (3), one (1) year options to renew from the date of approval unless terminated earlier pursuant to Section 10.02 or 10.03 of this Contract. Such termination shall not release either party from any of its continuing obligations under this Contract.

6.02 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.

SECTION SEVEN COMPENSATION AND TERMS OF PAYMENT

7.01 Compensation: Basic Services. 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 the fee in the amount identified in the Fee Breakdown, **Exhibit "D"** attached hereto, pursuant to invoices submitted in accordance with Section 7.04 of this Contract.

7.02 Compensation: Additional Services. For any services not set forth in the Scope of Services, the City shall pay to the Consultant either a lump sum fee, or an hourly fee based on the hourly labor rate schedule set forth in the **Exhibit "D"**, whichever is agreed to by the parties, provided prior written approval for such services is given by the City Representative.

7.03 Compensation: Reimbursable Expenses. The Consultant agrees that all of its direct and indirect expenses are included in the fee for Basic Services and the agreed upon compensation for any Additional Services, except as may be specifically allowed for reimbursable expenses as part of Additional Compensation.

7.04 Payment Invoicing. The Consultant may submit an invoice for payment for the services provided by the Consultant based on the manner or method of payment set forth in the Fee Breakdown. The City Representative will notify the Consultant of any problems regarding the invoice within fourteen (14) days from receipt thereof. If no response is received from the City Representative within the aforementioned period of time, the Consultant may 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. If resolution of the delay is not satisfactory to the Consultant, the Consultant may submit a claim pursuant to Section 10.20A of this Contract.

7.05 Right to Off-Set. The City Representative may subtract or offset from any unpaid invoice from the Consultant any claims, which the City may have for failure of the Consultant to comply with the terms, conditions or covenants of this Agreement, or any damages, costs and expenses caused by, resulting from, or arising out of the negligent act or omission of the Consultant in the performance of the services under this Agreement including, without limitation, any error or deficiency in the report or other documents prepared by the Consultant. Within seven (7) days, the City Representative shall provide a written statement to the Consultant of the off-set which has been subtracted from any payment to the Consultant along with appropriate documentation and receipts, if any, and a description of the failure, error or deficiency attributed to the Consultant. The Consultant may dispute the right or amount of the off-set made by the City by providing written notification to the City within fourteen (14) days after receipt of the City's written notice. 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 Agreement.

7.06 Final Payment. 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.

SECTION EIGHT PERFORMANCE SCHEDULE

8.01 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.

SECTION NINE AUDIT: ACCESS TO RECORDS

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

9.02 **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.

9.03 **Period of Maintenance.** The books, records and other documents under Sections 9.01 and 9.02 of this Contract shall be maintained for three (3) 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.

9.04 **Subcontract Provisions.** The Consultant agrees to include Sections 9.01 through 9.03 of this Contract in all its subcontracts directly related to performance of services specified in this Contract which are in excess of \$10,000.

SECTION TEN MISCELLANEOUS PROVISIONS

10.01 **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 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 percentage completed 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:

- (i) the Consultant was not a contributing cause for the suspension,
- (ii) the Consultant has not received an equitable adjustment under another provision of this Contract, and
- (iii) 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.

10.02. **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.

10.03 **Termination for Cause or Other Resolution.**

A. Default. The occurrence of any of the following events shall constitute a default by the Consultant hereunder (herein "Event of Default"). If, during the term of this Contract, the Consultant:

- (i) defaults in the due observance and performance of any term, condition or covenant contained in this Contract,
- (ii) (a) voluntarily terminates operations or consent to the appointment of a receiver, trustee or liquidator of the Consultant for all or a substantial portion of its assets, (b) is adjudicated bankrupt or insolvent or files a voluntary petition in bankruptcy, or admits in writing to the inability to pay its debts as they become due, (c) make a general assignment for the benefit of creditors, (d) file a petition or answer seeking reorganization or an arrangement with creditors or take advantage of any insolvency law, or (e) if action shall be taken by the Consultant for the purpose of effecting any of the foregoing,
- (iii) allows any warrant, execution or other writ to be issued or levied upon any property or assets of the Consultant which continues unvacated and in effect for a period of thirty (30) days, or
- (iv) fails, in the judgment of the City, to provide the services hereunder properly and with proper dispatch in accordance with the time schedule set forth in this Contract,

and the default continues five (5) days after written notice is given to the Consultant pursuant to Section 10.18.

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:

(i) 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 the cost of completing this Contract. In the event the 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,

(ii) 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

(iii) continue with performance by the Consultant and serve within a reasonable time after completion of this Contract a notice of claim or dispute pursuant to the procedure set forth in Section 10.20.

In the event that the City elects to implement (i) above, the costs and expenses of completing this Contract shall be computed and audited by the City's designated representative. The audit shall be conducted in accordance with generally accepted accounting principles and the cost thereof shall be paid by the City.

10.04 Ownership of Documents.

A. Architectural Works. To the extent that the Consultant's services involves the design of an architectural work as defined herein, the Consultant shall retain all common law and statutory rights of ownership, including copyrights, to the drawings and specifications prepared by the Consultant for this Project. The Consultant is deemed to be the author of the drawings and specifications as instruments of service to the City. Notwithstanding the foregoing, the Consultant hereby grants to the City the right to use (including the right of reproduction and use in the creation of new documents) the drawings and specifications for the purpose of completing the Project or for any subsequent maintenance, repair, renovation, remodeling or addition thereto. The rights granted herein to the City shall extend and include any new consultant which the City may retain for the aforementioned purposes. The Consultant hereby releases the City, and any new consultant retained by the City, for the aforementioned purposes, from any and all claims in connection with the use or reproduction of the drawings and specifications. The 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 or the City's authorized use, reuse or alteration by any new consultant or other agent of the City. of the Consultant's designs, drawings and specifications. The Consultant agrees to execute such documents reasonably deemed necessary by the City to implement the rights granted to the City pursuant to this subsection which may include written permission to make changes or modifications to the plans.

B. Other Works. To the extent that the Consultant's services does not involve the design of an architectural work and upon the City's payment for the services rendered by the Consultant, the City shall have all common law and statutory rights of ownership, including copyrights, to the plans, drawings, specifications and other documents (including, without limitation, design concepts and sketches, test results, evaluations, reports and studies, excepting any proprietary forms, templates, and checklists specifically listed for City ownership exclusion elsewhere in this Agreement) (collectively herein the "Documents") prepared or assembled by the Consultant, or any of its subconsultants, for this Project. The Consultant hereby releases the City, and any new consultant retained by the City, for the aforementioned purposes, from any and all claims in connection with the use or reproduction of the drawings and specifications. The 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 or the City's authorized use, reuse or alteration by any new consultant or other agent of the City of the Consultant's designs, drawings and specifications. The Consultant agrees to execute such documents reasonably deemed necessary by the City to implement the rights granted to the City pursuant to this subsection which may include written permission to make changes or modifications to the plans. The Consultant shall be entitled to retain a reproducible copy of the documents furnished to the City.

C. Definition of Architectural Work. For purposes of this Contract, "architectural work" shall have the same definition as set forth in Architectural Works Copyright Protection Act of 1990, P. L. 101-650, Title VII, Section 70 et. seq.

D. Delivery of Documents.

(i) In the event of the completion of this Agreement 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.

(ii) In the event of the suspension or termination of this Agreement, the Consultant shall have the right to invoice the City to request full payment for all services performed or furnished in accordance with this Agreement through the suspension or termination date. Any dispute regarding the amount of any payment to be made by the City under this Agreement 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 Agreement for any disputed payment claims.

E. 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.

F. Contractual Rights. Notwithstanding the provisions of 10.04 A above, the City is hereby licensed to use all design concepts developed by the Consultant and subconsultants under this Agreement, 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, the arrangement and composition of spaces and elements, the use of colors and materials, system designs, construction methods and interior design.

10.05 Insurance. The Consultant shall procure and maintain, at its own expense, during the entire term of this Contract, the following insurances:

A. Worker's Compensation Insurance. This insurance shall protect the Consultant and the City from employee claims based on job-related sickness, disease, or accident.

B. Commercial General Liability Insurance. This insurance shall protect the Consultant, its agents and vehicles used to provide the services required under this Agreement from claims of personal injury (including death) and property damage. Such coverage shall be in a minimum amount of \$1,000,000 combined single limit for the period of time covered by this Agreement. The Consultant's general liability insurance policies shall be endorsed to include the City as an additional insured. Any deductible or self-insured retention under the commercial general liability policy will be the sole responsibility of the Consultant and may not exceed \$25,000 without the written approval of the City. If the Consultant desires authority from the City to have a deductible in a higher amount, the Consultant shall so request in writing, specifying the amount of the desired deductible and making available for review the most current audited financial statements so that the City can ascertain the ability of the Consultant to cover the deductible from its own resources.

C. Commercial Automobile Liability Insurance. This insurance shall protect the Consultant from claims of limits no less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage to include, but not be limited to, coverage against all insurance claims for injuries to persons or damages to property which may arise from services rendered by Company and any auto used to the performance of services under this Contract. The policy must insure all vehicles owned by the Company and include coverage for hired and non-owned vehicles. The Consultant's automobile liability insurance policies shall be endorsed to include the City as an additional insured. Any deductible or self-insured retention under the commercial automobile liability policy will be the sole responsibility of the Consultant and may not exceed \$25,000 without the written approval of the City. If the Consultant desires authority from the City to have a deductible in a higher amount, the Consultant shall so request in writing, specifying the amount of the desired deductible and making available for review the most current audited financial statements so that the City can ascertain the ability of the Consultant to cover the deductible from its own resources.

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 Agreement. Any deductible or self-insured retention under the professional liability insurance policy will be the sole responsibility of the Consultant and may not exceed \$100,000 without the written approval of the City. If the Consultant desires authority from the City to have a deductible in a higher amount, the Consultant shall so request in writing, specifying the amount of the desired deductible and making available for review the most current audited financial statements so that the City can ascertain the ability of the Consultant to cover the deductible from its own resources.

E. Cancellation or Modification of Coverage. The Consultant's Commercial General Liability Insurance Policies shall automatically include or be endorsed to cover the Consultant's contractual liability to the City under this Agreement, and with respect to its Commercial General Liability Policy, to waive subrogation against the City, its officers employees and agents. The policies shall provide that the City will be given thirty (30) days' notice in writing of any cancellation of, or material change in, the policies.

F. Certificates and Endorsements. 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. All deductibles and self-insured retentions shall be fully disclosed in the Certificate of Insurance. The Consultant shall deliver to the City's authorized designated representative named in **Exhibit "B"** (Required Submittals) certificates indicating that such insurance is in effect before any services are provided under this Agreement and renewal certificates not less than 30 days prior to the expiration date of any policy.

G. 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 Agreement 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 10.05 for the duration of this Agreement and liability coverage as required by Section 10.05 for two years following completion of this Agreement.

10.06 Indemnity. Notwithstanding any of the insurance requirements set forth in Section 10.05, 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 copyrights 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 the Consultant's subcontractors or agents, in the performance of this Agreement.

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.

As used in this Section 10.06, "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.

10.07 Assignment. The City and the Consultant each bind itself and its partners, successors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party in respect to all covenants of this Agreement, except the Consultant shall not assign, sublet or transfer any obligation or benefit under this Agreement 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.

10.08 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.

10.09 Consultant Warranties. The Consultant hereby represents and warrants that:

- (i) 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,
- (ii) 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,
- (iii) 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
- (iv) 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. This Contract shall be construed and interpreted in accordance with the laws of the State of Nevada.

10.13 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.

10.14 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. 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 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.

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 1.01 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 3.02 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 10.20C 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 10.20B or 10.20C, 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 10.20A 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 10.20C. 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 10.03B or Section 10.20B, 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 Agreement 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. 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.

10.25 Contract Version. This document reflects the current standard provisions for the City's Professional Services Contract updated as of March 13, 2014.

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

CITY OF LAS VEGAS

By _____
Yolanda Jones, Manager, Purchasing & Contracts

ATTEST

Beverly K. Bridges, MMC, City Clerk Date

APPROVED AS TO FORM

CONSULTANT

John S. Ridilla 5/2/14
Deputy City Attorney Date

John S. Ridilla
Deputy City Attorney

By Claire Kohatsu
Claire Kohatsu, AZTECH INSPECTIONS & TESTING, LLC.

LIST OF EXHIBITS

EXHIBIT "A" SCOPE OF SERVICES

EXHIBIT "B" REQUIRED SUBMITTALS

EXHIBIT "C" PERFORMANCE SCHEDULE

EXHIBIT "D" FEE BREAKDOWN

EXHIBIT "E" INVOICE FORMAT

EXHIBIT "F" KEY PERSONNEL LIST

EXHIBIT "G" PROJECT TASK ORDER FORMAT

EXHIBIT "H" DISCLOSURE OF OWNERSHIP/PRINCIPALS

EXHIBIT "A"

SCOPE OF SERVICES

ARTICLE 100 SCOPE OF SERVICES – MATERIAL TESTING AND CONSTRUCTION INSPECTIONS

In addition to the services to be provided within this Contract and its Exhibits, Services to be provided under the terms of this Agreement are for material testing and construction inspection services for various projects as requested, in writing, by the City of Las Vegas, on an on-call basis.

SAMPLING AND TESTING CRITERIA:

All sampling and testing shall be performed in accordance with the following standards:

1. American Society for Testing and Materials (ASTM)
2. American Association of State Highway Transportation (AASHTO)
3. Standard Specifications for Public Works Construction, Off-site Improvements, Clark County Area (Std. Specs.)
4. American Concrete Institute (ACI)
5. The Asphalt Institute
6. Portland Cement Association (PCA)

100.1 COORDINATION

- 100.1.1 The Consultant shall make periodic site visits for consultation with on-site personnel and review of project documentation during construction.
- 100.1.2 The Consultant shall submit monthly letters, stamped and sealed by a Nevada Professional Engineer, certifying that all sampling and testing procedures have been performed in accordance to accepted industry standards.
- 100.1.3 The Consultant shall attend coordination meetings when requested by the City's Construction Manager to discuss tests and test results.
- 100.1.4 The Consultant shall submit a final report containing all test results, stamped and sealed by a Nevada professional Engineer.
- 100.1.5 Full-time Field Inspector – The Consultant shall provide qualified technician(s) to perform inspections as directed by the City's Representative. The field inspector shall notify the City's Representative when establishing the time of arrival and departure from the job site. All reports will be provided in Expedition format (Version 8.5 or higher).

100.2 SOILS TESTS

- 100.2.1 Sample Pick-up/On call Testing – The Consultant (or subconsultant) shall, when necessary, dispatch a technician to sample or test construction material.
- 100.2.2 The Consultant (or sub-consultant) shall perform relative compaction test of structural fill, subgrade, aggregate base grade and trench backfill 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.
- 100.2.3 The Consultant (or subconsultant) 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 within two (2) working days following samples being retrieved from the project site.
- 100.2.4 The Consultant (or subconsultant) 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 within two (2) working days following samples being retrieved from the project site.240 The Consultant (or subconsultant) 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 within three (3) working days following samples being retrieved from the project site.

- 100.2.5** The Consultant (or subconsultant) 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 within two (2) working days following samples being retrieved from the project site.
- 100.2.6** The Consultant (or subconsultant) 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 within two (2) working days following samples being retrieved from the project site.
- 100.2.7** The Consultant (or subconsultant) 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 within three (3) working days following samples being retrieved from the project site.
- 100.2.8** The Consultant (or subconsultant) shall retrieve samples from the project site and perform laboratory Fractured Faces test when requested by the City. Test results shall be delivered to the City within two (2) working days following samples being retrieved from the project site.

100.3 CONCRETE TESTS

- 100.3.1** The Consultant (or Sub-consultant) shall perform on-site slump, temperature, 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.
- 100.3.2** The Consultant (or subconsultant) shall prepare a minimum of four (4) test cylinders 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 two (2) working days following each cylinder being tested.

100.4 ASPHALTIC CONCRETE

- 100.4.1** The Consultant (or sub-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.
- 100.4.2** The Consultant (or subconsultant(s)) 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 two (2) working days following samples being retrieved from the project site.
- 100.4.3** The Consultant (or subconsultant) 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 two (2) working days following samples being retrieved from the project site.
- 100.4.4** The Consultant (or subconsultant) 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 two (2) working days following samples being retrieved from the project site.
- 100.4.5** The Consultant (or subconsultant) 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 three (3) working days following samples being retrieved from the project site.

100.5 TESTING REQUIREMENTS

The following requirements for material control is included herein as reference and incorporated into the scope of work. The Consultant (or sub-consultant) shall be responsible for the following testing methodology.

- 100.5.1** Trench Backfill – Material sampled shall be tested in accordance with the test method and frequency indicated:

Control Test	Test Method	Frequency
Maximum Density/Opt. Moisture	ASTM D1557	1 per soil type
Sieve Analysis	AASHTO T27	1 per soil type
Plasticity Index	ASTM D4318	1 per soil type
Liquid Limit	ASTM d4318	1 per soil type

100.5.2 Subgrade Material – Material sampled shall be tested in accordance with the test method and frequency indicated:

Control Test	Test Method	Frequency
Maximum Density	ASTM D1557	1 per soil type, Minimum 2
Sieve Analysis	AASHTO T27	1 per soil type, Minimum 2
Plasticity Index	ASTM D4318	1 per soil type, Minimum 2
Liquid Limit	ASTM D4318	1 per soil type, Minimum 2

100.5.3 Type II Aggregate Base – Material sampled shall be tested in accordance with the test method and frequency indicated

Control Test	Test Method	Frequency
Maximum Density/Opt Moisture	STM D1557	1 per supplier
Sieve Analysis	AASHTO T27	1 per supplier
Fractured Faces	Nev T230	1 per supplier
Plasticity Index	ASTM D4318	1 per supplier
Liquid Limit	ASTM D4318	1 per supplier
Resistance (R-Value)	ASTM D2844	1 per supplier
Percent of Wear (500 Rev.)	ASTM C131	1 per supplier

100.5.4 Portland Cement Concrete – Concrete cylinders shall be cast and tested in accordance with ASTM. Material shall be sampled and tested as indicated

No. Cylinders/ Portion of Work	Sampling Frequency	Break Days
Sidewalk	1 set per 1000 LF per day	(4)/7, 14, 28
Curb and Gutter	1 set per 1000 LF per day	(4)/7, 14, 28
Crossgutter	1 set per 1000 LF per day	(4)/7, 14, 28
Misc. Structures	1 set per structure per day	(4)/7, 14, 28
Driveways	1 set per driveway	(4)/7, 14, 28

100.5.5 Bituminous Pavement – Material sampled during paving operation shall be tested in accordance with ASTM using Marshall Apparatus as indicated:

Control Test	Test Method	Frequency
Marshall Series	ASTM D1559	1 per day
Maximum Theoretical Density	ASTM D2041	1 per day
Asphalt Content	ASTM D2172	2 per day
Aggregate Gradation	ASTM C136 & C117	2 per day

100.6 RELATIVE COMPACTION TESTING

The following requirements for Relative Compaction Testing are included herein as referenced and incorporated into the scope of work. The Consultant (or subconsultant) shall be responsible for the following field relative compaction tests.

100.6.1 Trench Backfill – Backfill shall be tested as indicated:

- 1 test per lift per 100 lineal feet of trench or a minimum of 2 tests per day.
- 1 test per lateral.
- A minimum of 2 mainline tests between structures.

100.6.2 Structure Backfill – Backfill shall be tested as indicated:

- 1 test per lift per structure or a minimum of 1 test per day.
- A minimum of 1 test per structure.

100.6.3 Subgrade – Subgrade shall be tested as indicated:

- 1 test per 300 to 500 lineal feet per lane (12' width) or a minimum of 2 tests per street.

- 100.6.4** Type II Aggregate Base – Aggregate base shall be tested as indicated:
- 1 test per 300 to 500 lineal feet per lane (12' width) or a minimum of 2 tests per street.
- 100.6.5** Curb and Gutter – Aggregate base and subgrade shall be tested as indicated:
- 1 test per 500 lineal feet of curb and gutter or curb or a minimum of 2 per street.
- 100.6.6** Crossgutter – Aggregate base and subgrade shall be tested as indicated:
- 2 tests per complete crossgutter.
- 100.6.7** Sidewalk – Aggregate base and subgrade shall be tested as indicated:
- 1 test per 500 lineal feet of sidewalk or a minimum of 1 per street.
- 100.6.8** Driveways – Aggregate base and subgrade shall be tested as indicated:
- Residential – 1 test per complete driveway.
 - Commercial/Alley – 2 tests per complete driveway.
- 100.6.9** Hot plantmix bituminous pavement – place field density testing of hot bituminous pavement per ASTM D2590 (Nuclear Gauge Method) shall be performed as indicated:
- A minimum of 5 locations per day.
A minimum of 5 cores per pavement day for Unit weight density and thickness determination

END OF EXHIBIT "A"

EXHIBIT "B"

REQUIRED SUBMITTALS

ARTICLE 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 soon as practical after the completion of each event, task, phase, and service, and as a prerequisite to payment for each related event, task, phase, and service.

200.2 **Certificates of Insurance**

The Consultant shall deliver to Insurance Tracking Services, Inc. (ITS), the City's authorized designated representative, a certificate of insurance with respect to each required policy to be provided by the Consultant under this Contract. The required certificates must be signed by the authorized representative of the insurance company shown on the certificate with proof that such person is an authorized representative thereof, and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon.

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) shall be provided to the City upon request.

The Consultant shall promptly deliver to ITS a certificate of insurance with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the terms specified herein. Such certificate shall be delivered to ITS not less than 30 days prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof.

END OF EXHIBIT "B"

EXHIBIT "C"

PERFORMANCE SCHEDULE

ARTICLE 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 the documents are delivered to the Consultant for review.
- 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.

ARTICLE 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 task orders issued by the City.
- 301.1.1 Document Review: Subject to any limitations stated in the Consultant's proposal, the specified investigation shall be completed and the reports delivered to the City within ten working days, barring circumstances beyond the Consultant's control that force a delay.
- 301.1.2 Back-Check Follow-up: Subject to any limitations stated in the Consultant's proposal, the specified investigation shall be completed and the reports delivered to the City within five working days, barring circumstances beyond the Consultant's control that force a delay.

END OF EXHIBIT "C"

EXHIBIT "D"

FEE BREAKDOWN

ARTICLE 400 COST DERIVATIVE AND HOURLY FEE SCHEDULE FOR MATERIAL TESTING AND CONSTRUCTION INSPECTIONS

400.1 TOTAL COMPENSATION

- 400.1.1** 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 **\$250,000 annually**. Increases to total compensation may only be authorized by written amendment or change order to this Contract. The fixed rates are described in this Exhibit "D" (Fee Schedule).
- 400.1.2** For the services set forth in Exhibit "A" (Scope of Services), the City agrees to pay to the Consultant the fixed fees and fixed hourly rates set forth in this Exhibit "D" (Fee Breakdown). These fixed fees and fixed hourly rates are valid for two (2) years from the date of award, 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 personnel maintaining facilities, equipment and computers.
- 400.1.3** After the initial term and first renewal, two years from the date of award, there may be a price adjustment request. The price adjustment request shall include suitable proof, and shall be submitted in writing to the City's authorized representative at minimum of thirty (30) calendar days in advance of the price adjustment. The price increases shall not be retroactive. A price adjustment can only occur if Consultant receives written approval by the City of the price adjustment request. Suitable proof will be required with price adjustment request as follows: Print-out of PPI index series ID: Not Seasonally Adjusted, Nevada Statewide Professional and Business Services; and a letter from the Consultant describing the price adjustment request. The price adjustment may be the lesser of the percent of the CPI or PPI change or four (4) percent.

STAFF RATES	Engineer				\$120.00	Per hour
	Project Manager				\$89.00	Per hour
	Special Inspector				\$84.00	Per hour
	Technician				\$76.00	Per hour
	Technician- Coring				\$84.00	Per Hour
	Ground Penetrating Radar Technician				\$150.00	Per hour
ASPHALT	Test Standard	ASTM	AASHTO	NDOT	Rate	
	Absolute Viscosity @ 140F on AC Binder	-	T202	-	\$94.00	
	Bending Beam Rheometer (BBR) on AC Binder	-	TP1	-	\$188.00	
	Bulk Specific Gravity of Compacted Asphalt (AC Cores)	D2726	T166	T333	\$30.00	
	Direct Tension (DT) on AC Binder				\$226.00	
	Ductility of AC Binder	-	T51	-	\$100.00	
	Dynamic Shear				\$226.00	
	Effect of Moisture on AC Mix, TSR, (Lottman)	D4867	T283	T341	\$481.00	
	Flexibility				\$115.00	
	Flow				\$50.00	
	HVEEM Stability				\$282.00	
	Ignition Furnace				\$129.00	
	Kinematic Viscosity @ 275F on AC Binder	-	T201		\$94.00	
	Marshall Mix Design, w/ TSR & Rice	D1559	T245	-	\$1,943.00	
	Marshall Stability, Flow, and Unit Weight	D1559	T245	-	\$343.00	
	Moisture on AC Mix				\$34.00	
	Open Grade Mix Design, w/ Index of RT & Rice	-	-	-	\$1,733.00	
	Penetration of AC Binder	-	T49	-	\$78.00	
	Pressure Aging of Asphalt Binder (PAV)	-	-	-	\$88.00	
	Quantitative Extraction				\$232.00	
	Resilience				\$79.00	
	Roto-Vapor Recovery of AC Binder (2 recoveries)	D5404	-	-	\$481.00	
	Softening Point				\$142.00	
	Theoretical Maximum Specific Gravity (Rice)	D2041	T209	T324	\$110.00	
	Thickness of Asphalt Cores				\$12.00	
	Weight per Gallon				\$79.00	

SOIL AND AGGREGATE	California Bearing Ratio (CBR)				\$350.00
	Chloride				\$49.00
	Clay Lumps and Friable Particles in Aggregate	C142	T112	-	\$72.00
	Cleanliness Value of Aggregate, CV	-	-	T228	\$138.00
	Direct Shear				\$402.00
	Dry Rodded Unit Weight of Aggregate	C29	T19	-	\$104.00
	Durability Index				\$125.00
	Flat and Elongated Particles	D4791	-	-	\$104.00
	Fractured Faces	-	-	T230	\$100.00
	Harvard Miniature				\$188.00
	LA Abrasion	C131	T96	-	\$149.00
	Lightweight Pieces	C123	T113		\$122.00
	Methylene Blue	-	-	T503A	\$104.00
	Moisture Content				\$34.00
	Moisture/Density Curve (Proctor), Method A	D1557	T180	-	\$160.00
	Moisture/Density Curve (Proctor), Method B,C,D	D1557	T180	-	\$192.00
	Mortar Making Properties of Sand	C87	T71	T472	\$420.00
	Organic Impurities in Fine Aggregate	C40	T21	-	\$78.00
SOIL AND AGGREGATE	Organic Matter Content				\$68.00
	pH				\$49.00
	Plasticity Index	D4318	T90	T212	\$129.00
	Resistivity				\$138.00
	R-Value	D2844	T190	T115	\$270.00
	Sand Equivalent	D2419	T176	T227	\$100.00
	Sieve Analysis (coarse and fine)	C136	T27	T206	\$129.00
	Soil Solubility				\$94.00
	Soluble Sulfates	-	-	-	\$100.00
	Soundness of Aggregate using Sodium Sulfate	C88	T104	-	\$149.00
	Specific Gravity of Coarse Aggregate	C127	T85	T111	\$94.00
	Specific Gravity of Fine Aggregate	C128	T84	T224	\$129.00
	Specific Gravity of Soils	D854	T100	T109	\$138.00
	Swell				\$122.00
	Uncompacted Void Content in Fine Aggregate	C1252	T304	-	\$66.00
MISC.	Density of Spray-Applied Fireproofing				\$51.00
	Tensile Strength of Rebar				\$70.00
CONCRETE AND MASONRY	Compression Test and Absorption of Masonry Unit	C140	-	-	\$144.00
	Compression Test on CLSM	C4832	-	-	\$29.00
	Compression Test on Concrete Core	C42	-	-	\$39.00
	Compression Test on Concrete Cylinder	C39	T22	-	\$29.00
	Compression Test on Grout Cylinder	C1019	-	-	\$29.00
	Compression Test on Light Weight Concrete	C495	-	-	\$45.00
	Compression Test on Masonry Prism	C1314	-	-	\$100.00
	Compression Test on Cube	C579 / C109	T106	-	\$26.00
	Flexural Strength of Concrete Beam, 3rd point load	C78	T97	T443	\$83.00
	Flexural Strength of Concrete Beam, Center point load	C293	T177	T442	\$83.00
	Specific Gravity on CMU	C140	-	-	\$89.00

END OF EXHIBIT "D"

EXHIBIT E – INVOICE FORMAT

To: **CITY OF LAS VEGAS**
333 North Rancho Drive
LAS VEGAS, NEVADA 89106

Project Name: PROJECT NAME

Attention: CLV PROJECT MANAGER

Invoice #:

Job #:

Task #:

Date:

Item	Principal			Project Manager			Geologist			Field Technician			Inspector			Field/Lab/Supervisor			Secretary			Trips			Tests		
	*\$	Hours Used this Period	Hours Left in Budget	*\$	Hours Used this Period	Hours Left in Budget	\$	Hours Used this Period	Hours Left in Budget	*\$	Hours Used this Period	Hours Left in Budget	*\$	Hours Used this Period	Hours Left in Budget	\$	Hours Used this Period	Hours Left in Budget	*\$	Hours Used this Period	Hours Left in Budget	\$	Hours Used this Period	Hours Left in Budget	\$	Hours Used this Period	Hours Left in Budget
Contract Task #																											
110																											
120																											
130																											
140																											
210																											
220																											
230																											
240																											
250																											
260																											
270																											
310																											
320																											
410																											
420																											
430																											
440																											
450																											
710																											
810																											
815																											
Subtotal																											
Subtotal (\$)																											

*Actual hourly rate multiplied by XX.X% (Labor Overburden Multiplier) which includes compensation for equipment, lab time, & profit @ XX% of labor

EXHIBIT "F"

KEY PERSONNEL LIST

ARTICLE 600: CITY PERSONNEL

600.1 CITY REPRESENTATIVE: Chris Finberg

600.2 CITY REPRESENTATIVE'S SUPERVISOR:

ARTICLE 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.

601.1.1 CONSULTANT REPRESENTATIVE: Claire Kohatsu

601.1.2 CONSULTANT REPRESENTATIVE'S SUPERVISOR:

601.1.3 RESPONSIBLE IN CHARGE PERSON (Mandatory under NRS 338 Constructability Review Requirement)
List name of individual Architect, individual Engineer, or Contractor company name as licensed: Claire Kohatsu, P.E.

601.1.4 IN CHARGE PERSON'S STATE OF NEVADA LICENSE NUMBER
List Architect, Engineer, or Contractor license number: 13960

601.1.5 TECHNICIAN: _____

601.1.6 CLERICAL: _____

END OF EXHIBIT "F"

EXHIBIT "G"

PROJECT TASK ORDER FORMAT

Project Name: _____

Project Task Order: _____ (Each project Task Order should be sequentially numbered)

Section A: Scope of Services for Project Task Order

The scope of services for the task order is described in detail and broken down into specific tasks and subtasks.

Section B: Additional Services

Additional services are described by task. Additional services are performed by the Consultant at the discretion of the City of Las Vegas and only when authorized in writing.

Section C: Man Hour and Testing Estimate (Exhibit C)

Man-hour breakdown for each task and subtask is presented in a spreadsheet format for services described in Section A. Spreadsheet format will have all tasks and subtasks listed by number in the first column with all proposed personnel in the first row. This break down shall be substantially as shown on attached Exhibit C and labeled in sequential task order as Exhibit C-(1,2,3...).

Section D: Cost Derivation and Hourly Testing Fee Schedule (Exhibit D)

Costs for each task and subtask are determined by multiplying the man-hours and the hourly rates as shown in "Exhibit D" and presented in a completed spreadsheet. The not-to-exceed sum for completion of the task order is so identified. This break down shall be substantially as shown on the attached Exhibit D and labeled in sequential task order as Exhibit D-(1,2,3...).

Section E: Frequency of Material Tests

The normal required frequencies of material tests are shown on Exhibit A. These shall be excerpted and modified if warranted for each individual task order and attached to the task order when Material Test Services are requested by the City.

Upon execution hereof, this Project Task Order shall be attached as Exhibit G-(1,2,3...). Professional Services Agreement for Engineering Services.

Dated this _____ day of _____, 20_____.

By: _____
Consultant

By: _____
City Representative

EXHIBIT "H"

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	Aztech Inspections and Testing LLC
Address	4700 Copper Sage Street Las Vegas, Nevada 89115
Telephone	702-247-7645
EIN or DUNS	090534301

Block 2	<u>Description</u>
Subject Matter of Contract/Agreement:	
Professional Services Agreement for Material Testing, Construction Inspections and Geotechnical Services	
RFP #:	

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