

**CONTRACT FOR PROFESSIONAL SERVICES FOR THE
CITY OF LAS VEGAS ECONOMIC DEVELOPMENT MARKETING INITIATIVE**

THIS CONTRACT is being entered into this _____ day of _____, 2015, by and between the CITY OF LAS VEGAS REDEVELOPMENT AGENCY (hereinafter the "City"), an agency of the City of Las Vegas, within the state of Nevada having its principal office at 495 South Main Street, Las Vegas, Nevada 89101, and FFM, LLC DBA FAISS FOLEY WARREN, (a Limited Liability Company), (hereinafter the "Company") having its principal office located at 100 North City Parkway, Suite 750, Las Vegas, Nevada 89106.

SECTION A – Subject of Contract

The subject matter of this Contract is the provision of professional services for the City's Fiscal Year 2016 Economic Development Marketing Initiative.

SECTION B – Basic Terms

B-1 Definitions

The following definitions apply to this Contract:

- (a) "*Award Date*" means the date that a Contract becomes effective. It is the date that is entered into the first paragraph of a Contract upon execution by an authorized representative of the City.
- (b) "*City*" means the City of Las Vegas Redevelopment Agency.
- (c) "*City Council*" means the governing body of the City of Las Vegas.
- (d) "*Company*" means the individual, partnership, or corporation responsible for the performance of services under this Contract.
- (e) "*Company Representative*" means the individual authorized to act on behalf of the Company regarding routine matters arising under or relating to this Contract.
- (f) "*Contract*" means this document, consisting of Sections A through F, which is binding and effective only upon execution by the City.
- (g) "*Deliverable*" means any report, software, hardware, data, documentation, or other tangible item that the Company is required to provide to the City under the terms of the Contract.
- (h) "*Firm-Fixed Fee*" means a firm fee that is not subject to any adjustment on the basis of the Company's cost experience in performing the Contract.
- (i) "*Non-Exclusive Contract*" means a Contract under which the City agrees to obtain some, but not necessarily all, of the City's requirements for a particular service.
- (j) "*Project Manager*" means the City representative who is responsible for the coordination of Contract performance between the City and the Company.

B-2 Contract Type

The Contract type is Firm-Fixed Fee. This is a Non-Exclusive Contract.

B-3 Prices/Costs

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

Item No.	Description	Quantity	Amount	Extended Total
1.	Monthly Retainer	12	\$9,000.00	\$108,000.00
2.	Special Projects/Programs Funds (Not-to-Exceed)	N/A	N/A	\$35,000.00
3.	At-Cost Reimbursable Expenses (Not-to-Exceed)	N/A	N/A	\$57,000.00

(b) Authorized Amount. The authorized amount for this Contract is \$200,000.00. In no event shall the total payments to the Company for the services provided under this Contract exceed the aforementioned amount appropriated without the prior approval of the City.

(c) Reimbursable Expenses.

- (i) Any single cost or expense subject to reimbursement by the City which exceeds five thousand dollars (\$5,000.00) or which is not listed below in Section B-3(c)(ii) must be approved by the City in advance of the obligation being incurred in order for such cost or expenses to be reimbursed.
- (ii) The Company shall be reimbursed for all reasonable and actual (without mark-up) out-of-pocket expenses directly associated with their performance of services under this Contract. These include, but are not limited to:
 - Media placement
 - Print production design to include marketing materials, graphic design services, printing, photography, illustration
 - Website and online development and updating to include website development, and updating and maintenance of lvdowntown.com
 - Social media testimonial videos
 - Special Projects/Programs (outside defined scope) work and approved by the City
 - Contingency of 6 percent of Hard Cost budget

(d) Reimbursable Travel Expenses. If travel is required in performance of services under this Contract, reasonable travel expenses will be paid at cost for out-of-town services provided under the scope of this Contract. Reimbursement is subject to certain limitations. The City will reimburse airfare up to the cost of a coach fare, with 7-day advance purchase. Reimbursement will also be provided for all other expenses including, but not limited to, lodging (business class), meals, ground transportation, rental cars, parking, and incidental expenses. The Company shall coordinate all travel in advance with the City's Project Manager. The City will not reimburse personal entertainment expenses, alcoholic beverages, travel expenses for family members, use of health facilities (unless included in the basic price of hotel accommodations), movies in a hotel, or other non-business related costs. The City's Project Manager must approve any deviations to these procedures.

(e) Payment. The Company will invoice the City by the tenth (10th) of each month for:

- (i) the monthly retainer amount stated in Section B-3(a);
- (ii) professional services and expenses applicable to active special projects/programs for the prior month; if applicable, and
- (iii) reimbursable expenses and reimbursable travel expenses for the prior month, if applicable.

B-4 Invoices [CAO-5/2/12]

(a) The Company shall submit an invoice to the City in accordance with Section B-3 (c) (Payment). All invoices should be itemized and identify the following items:

- (i) the date of the invoice and invoice number;
- (ii) the purchase order number;
- (iii) the Contract Item against which charges are made; and
- (iv) performance dates covered.

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

ATTN: Accounts Payable
Department of Finance
City of Las Vegas
495 South Main Street, 4th Floor
Las Vegas, NV 89101 – 2986

(b) The Company shall forward a copy of the invoice to the City's Project Manager identified in Section D-2 (Project Manager/Company Representative) with the following items, if applicable, that are associated with the invoice:

- (i) professional services time log for active special projects/programs and expense receipts, and
- (ii) receipts for any Reimbursable Travel Expenses, if applicable, associated with the invoice.

B-5 Performance Period

The performance period commences from July 1, 2015 and continues through June 30, 2016, unless extended through mutual agreement by both parties.

SECTION C – Statement of Work

C-1 Scope of Services

The Company shall provide professional services to the City for its Fiscal Year (FY) 2016 Economic Development Marketing Initiative. The services rendered and the deliverables provided shall be accomplished as described in the Scope of Work; Exhibit A attached hereto and incorporated herein as a part of this Contract.

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SECTION D – Special Conditions

D-1 Legal Notice [CAO-7/24/08]

- (a) All legal notices required pursuant to the terms and conditions of this Contract shall be in writing, unless an emergency situation dictates otherwise. Any notice required to be given under the terms of this Contract shall be deemed to have been given when (i) received by the party to whom it is directed by hand delivery or personal service, (ii) transmitted by facsimile with confirmation of transmission, (iii) transmitted by email with confirmation of receipt by addressee, or (iv) sent by U.S. mail via certified mail-return receipt requested at the following addresses:

FOR THE CITY: David Riggleman, Director of Communications
City of Las Vegas
495 South Main Street
Las Vegas, NV 89101
Email: driggleman@lasvegasnevada.gov
jjohns@lasvegasnevada.gov

COPY TO: Manager, Purchasing and Contracts
City of Las Vegas
495 South Main Street, 3rd Floor
Las Vegas, NV 89101
Fax: (702) 384-9964
Email: purchasing@lasvegasnevada.gov

FOR THE COMPANY: Attn: Melissa Warren, Managing Partner
FFM, LLC dba Faiss Foley Warren
100 North City Parkway, Suite 750
Las Vegas, Nevada 89106
Fax: (702) 933-1261
Email: melissa@ffwpr.com

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

D-2 Project Manager/Company Representative [CAO-7/24/08]

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

D-3 Warranty – Services [CAO-5/2/12]

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

D-4 Ownership of Materials

All materials produced or purchased at the City's expense by the Company or its approved advisory and support consultants shall be the property of the City. When the Company completes the Services and is paid in full for all approved and non-disputed Fees and Reimbursements, the Company shall deliver the originals of all materials produced or purchased by the Company to the City within thirty (30) days. The City shall be the owner of any and all work product (including, without limitation, all writings, drawings, specifications, blueprints, pictures, photographs and recordings) created, produced, developed, prepared or submitted by Company to the City under this Contract whether it be in printed or electronic form, and the City may reproduce, modify and otherwise use the work product created for any and all purposes. The City shall also be the owner of all intellectual property rights in such work product, including all rights of copyright therein. Without any additional consideration, the Company will execute and deliver any and all further documents that the City reasonably determines may be desirable to perfect its ownership of any intellectual property rights, including any copyright rights, in any of the work product. It is the intention of the Company and the City that the work product is a "**work for hire**" as that term is used in the federal Copyright Act. To the extent that any of the work product is not deemed "work for hire," the Company hereby assigns, grants and conveys and agrees to assign, grant and convey all of the Company's worldwide right, title and interest in and to such work product and all rights of copyright therein. However, if the work product consists of plans and specifications for physical structures, the City will indemnify the Company from any claim for property damage or personal injury arising from the use of the plans and specifications for any purpose other than the purpose for which originally produced.

D-5 Intellectual Property Rights [CAO-7/24/08]R

All deliverables produced under this Contract, as well as all data, notes, and documentation collected on behalf of the City, are exclusively the property of the City. The Company agrees that all trademarks, trade names, service marks, logos, or copyrighted materials of the City that the Company is permitted to use in connection with this Contract are used by the consent of the City and shall remain the sole and exclusive properties of the City, or its Affiliates, and this Contract does not confer upon the Company any right or interest therein or in the use thereof.

D-6 Licenses/Registrations [CAO-5/2/12]

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

D-7 Performance Reviews

During the Performance Period, the Company and the City will meet as frequently as either party deems necessary to review the Company's performance of services under this Contract.

D-8 Order of Precedence [CAO-7/24/08]

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

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SECTION E – General Conditions

E-1 Disputes [CAO-5/2/12]

- (a) For each claim or dispute arising between the parties under this Contract, 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 and 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 Company, the Company shall notify the City of its intent to proceed further with the claim or dispute and in response thereto, the City shall notify the Company as to its selected forum for resolution. For any and all claims or disputes asserted by the City, the City shall notify the Company in the notice of its intent to proceed with further resolution 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 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 Contract and the venue for purposes of such litigation or arbitration shall be the Eighth Judicial District Court, Clark County Nevada.

E-2 Notice of Delay [CAO-7/24/08]

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

E-3 Termination for Convenience [CAO-5/2/12]

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

E-4 Termination for Default [CAO-5/2/12]

- (a) The City may, by written notice of default to the Company, terminate this Contract in whole or in part if the Company 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 Contract or any extension;
 - (ii) Make progress, so as to endanger performance of this Contract; or
 - (iii) Perform any of the other provisions of this Contract.
- (b) The City's right to terminate this Contract under (a) above, may be exercised if the Company does not cure such failure within ten (10) calendar days (or more if authorized by the City) after notice specifying the failure is provided pursuant to Section D-1 (Legal Notice) of this Contract.

- (c) If the City terminates this Contract for default in whole or in part, it may acquire, under reasonable terms and in a manner the City considers appropriate, services or goods similar to those terminated, and the Company shall be liable to the City for any excess costs for those services or goods. However, the Company shall continue any work not terminated.
- (d) The Company shall not be liable for any excess costs if the failure to perform the Contract arises from circumstances beyond the control and without the fault or negligence of the Company. These circumstances are limited to such causes as (i) acts of God or of the public enemy, (ii) acts of governmental bodies, (iii) fires, (iv) floods, (v) epidemics, (vi) quarantine restrictions, (vii) labor strikes, (viii) freight embargoes, or (ix) unusually severe weather. The time of performance of the Company's obligations under this Contract shall be extended by such period of enforced delay; provided, however, that such reasonably extended time period shall not exceed 60 days. If the foregoing circumstances result in a delay greater than sixty (60) days, the City may terminate the affected portion of the Contract pursuant to the terms of Section E-3 (Termination for Convenience).
- (e) Either party may terminate this Contract, 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 thirty (30) days following commencement thereof.
- (f) The City retains the right to terminate for default immediately should the Company 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 Contract, and the City does not remedy the failure after notice thereof is provided to the City by the Company pursuant to Section D-1 (Legal Notice) above, the Company shall have the right to treat the failure as a claim or dispute subject to the resolution provisions of Section E-1 (Disputes) of this Contract. During the period of such resolution, the Company shall continue with its performance under the Contract.

E-5 Insurance [CAO-5/2/12]

- (a) The Company shall procure and maintain, at its own expense, during the entire term of the Contract, the following coverage(s):
 - (i) Industrial/Workers' Compensation Insurance protecting the Company and the City from potential Company employee claims based upon job-related sickness, injury, or accident, during performance of this Contract, and must submit proof of such insurance on a certificate of insurance issued by an insurer qualified to underwrite workers' compensation insurance in the State of Nevada, in accordance with NRS 616A-616D, inclusive. If Company is a sole proprietor, it will be required to submit an affidavit indicating that the company has elected not to be included in the terms, conditions and provisions of NRS 616A-616D, inclusive, and is otherwise in compliance with those terms, conditions and provisions. The Supplier's Workers' Compensation policy shall have a waiver of subrogation endorsement in favor of the City of Las Vegas.
 - (ii) Commercial General Liability Insurance (bodily injury, property damage) with respect to the Company's agents assigned to the activities performed under this Contract in a policy limit of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate, for bodily injury, products, completed operations, personal injury and property damages. Such coverage shall be on an "occurrence" basis and not on a "claims made" basis, and be provided on either a Commercial General Liability or a Broad Form Comprehensive General Liability (including a Broad form CGL endorsement) insurance form. The form must be written on an ISO Form CG 00 01 10 01, or an equivalent form. The Supplier's General Liability policy shall have a waiver of subrogation endorsement in favor of the City of Las Vegas, and shall be endorsed to include the City, its officers, and employees as additional insured.
 - (iii) Commercial Automobile Liability Insurance of limits no less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage to include, but not be limited to, coverage against all insurance claims for injuries to persons or damages to property which may arise from services rendered by Company and any auto used in the performance of services under this Contract. The policy must insure all vehicles **owned** by the Company and include coverage for **hired** and **non-owned** vehicles. If the services requested do not require the use of vehicle to perform, Commercial Automobile Liability Insurance requirements, as described in this paragraph do not apply. The Supplier's Automobile Liability policy shall

have a waiver of subrogation endorsement in favor of the City of Las Vegas, and shall be endorsed to include the City, its officers, and employees as additional insured.

- (iv) Professional Liability Insurance of limits no less than \$1,000,000, combined single limit and in the aggregate. If coverage is on a "claims made" basis, then it must continue for a period of two years beyond the completion or termination of this Contract. Any retroactive coverage must coincide with or predate the beginning of this Contract and may not be changed without the consent of the City.
- (b) Company must provide required insurance certificates and endorsements 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 required aggregate limits must be disclosed and amounts entered on the certificate(s) of insurance. The certificates must identify the Contract number and the Contract description. The Company shall maintain coverage for the duration of this Contract, and any renewal periods if applicable. The Company shall annually provide ITS with a certificate of insurance and endorsements as evidence that all insurance requirements have been met. The Company and/or insurance carrier shall provide the City with a 30 day advance notice of policy modification, cancellation or erosion of insurance limits, sent by certified mail "return receipt requested".

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 E-5 shall be provided to the City if so requested.

- (c) 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 Company, including the rating and financial health of each insurance carrier providing coverage, is subject to the approval of the City.
- (d) All deductibles and self-insurance retentions shall be fully disclosed in the certificate of insurance. No deductible or self-insured retention may exceed \$25,000.00 without the prior written approval of the City.
- (e) If the Company fails to carry the required insurance, the City may (i) order the Company to stop further performance hereunder, declare the Company in breach, pursuant to Section E-4, terminate the Contract if the breach is not remedied and, if permitted, assess liquidated damages, or (ii) purchase replacement insurance and withhold the costs or premium payments made from the payments due to the Company or charge the replacement insurance costs back to the Company.
- (f) Any subcontractor or subconsultant approved by the City shall be required to procure, maintain and submit proof of insurance to the City of the same insurance requirements as specified above, and as required in this paragraph.
- (g) The Company is encouraged to purchase any additional insurance it deems necessary.
- (h) The Company is required to remedy all injuries to persons and damage or loss to any property of the City caused in whole or in part by the Company, its subcontractors or anyone employed, directed or supervised by the Company.

E-6 Indemnification [CAO-5/2/12]

- (a) In addition to the insurance requirements set forth in Section E-5 (Insurance), the Company shall protect, indemnify and hold harmless the City, its officers, employees, agents, and consultants (collectively herein the "City") from any and all claims, liabilities, damages, losses, suits, actions, decrees, and judgments including, attorney's fees, court costs or other expenses of any and every kind or character (collectively herein the "Liabilities") which may be recovered from or sought against the City, as a result of, by reason of, or as a consequence of, any act or omission, negligent or otherwise, on the

part of the Company, its officers, employees, or agents in the performance of the terms, conditions and covenants of the Contract, regardless of whether the Liabilities were caused in part by the City.

- (b) If a third party claim against the City for negligent performance by the Company is within the limits of its liability insurance, and the insurance company has accepted the City's tender of defense, then the City will pay the Company what is due and owing to them within the payment method specified in this Contract. However, if the claim is greater than the coverage amount, the City, for its protection, may retain any money due and owing the Company under this Contract, until the claim has been resolved. In the event no money is due and owing, the surety, if required, of the Company, may be held until all of the Liabilities have been settled and suitable evidence to that effect furnished to the City.
- (c) It is expressly agreed that the Company shall defend the City against the Liabilities and in the event that the Company fails to do so, the City shall have the right, but not the obligation, to defend the same and to charge all direct and incidental costs, including attorney's fees and court costs, to the Company.

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

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

E-8 Waiver [CAO-7/24/08]

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

E-9 Taxes/Compliance with Laws [CAO-5/2/12]

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

E-10 Audit of Records [CAO-5/2/12]

- (a) The Company agrees to maintain the financial books and records (including supporting documentation) pertaining to the performance of this Contract according to standard accounting principles and procedures. The books and records shall be maintained for a period of three (3) years after completion of this Contract, except that books and records which are the subject of an audit finding shall be retained for three (3) years after such finding has been resolved. If the Company goes out of business, the Company shall forward the books and records to the City to be retained by the City for the period of time required herein.
- (b) The City or its designated representative(s) shall have the right to inspect and audit (including the right to copy and/or transcribe) the books and records of the Company pertaining to the performance of this Contract during normal business hours. The City will provide prior written notice to the Company of the audit and inspection. If the books and records are not located within Clark County, the Company agrees to deliver them to the City, or to an address designated by the City within Clark County. In lieu of such delivery, the Company may elect to reimburse the City for the cost of travel (including transportation, lodging, meals and other related expenses) to inspect and audit the books and records at the Company's office. If the books and records provided to the City are incomplete, the Company agrees to remedy the deficiency after written notice thereof from the City, and to reimburse the City for any additional costs associated therewith including, without limitation, having to revisit the Company's office. The Company's failure

to remedy the deficiency shall constitute a material breach of this Contract. The City shall be entitled to its costs and reasonable attorney fees in enforcing the provisions of this Section

- (c) If at any time during the term of this Contract, or at any time after the expiration or termination of the Contract, the City or the City's designated representative(s) find the dollar liability is less than payments made by the City to the Company, the Company agrees that the difference shall be either: (a) repaid immediately by the Company to the City or (b) at the City's option, credited against any future billings due the Company.

E-11 Independent Contractor [CAO-7/24/08]

In the performance of services under this Contract, the Company and any other person employed by it shall be deemed to be an independent contractor and not an agent or employee of the City. The Company shall be liable for the actions of any person, organization or corporation with which it subcontracts to fulfill this Contract. The City shall hold the Company as the sole responsible party for the performance of this Contract. The Company shall maintain complete control over its employees and all of its subcontractors. Nothing contained in this contract or any subcontract awarded by the Company shall create a partnership, joint venture or agency with the City. Neither party shall have the right to obligate or bind the other party in any manner to any third party.

E-12 Severability [CAO-7/24/08]

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

E-13 Conforming Services [CAO-7/24/08]

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

E-14 Modification/Amendment [CAO-7/24/08]

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

E-15 Entire Contract, Section and Paragraph Headings [CAO-7/24/08]

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

E-16 Conflict of Interest (City Officials) [CAO-5/2/12]

- (a) An official of the City, who is authorized on behalf of the City to negotiate, make, accept or approve, or take part in negotiating, making, accepting, or approving this Contract, payments under this Contract, or work under this Contract, shall not be directly or indirectly interested personally in this Contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of, or for the City, who is authorized on behalf of the City to exercise any legislative, executive, supervisory or other similar functions in connection with this Contract, shall become directly or indirectly interested personally in this Contract or in any part hereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to this Contract.

- (b) Each party represents that it is unaware of any financial or economic interest of any public officer or employee of the City relating to this Contract. Notwithstanding any other provision of this Contract, if such interest becomes known, the City may immediately terminate this Contract for default or convenience, based on the culpability of the parties.
- (c) The Company represents and warrants that it has, in accordance with the current policy of the City, disclosed the ownership and principals of the Company on Attachment 1 (Certificate – Disclosure of Ownership/Principals), and that it has a continuing obligation to update this disclosure whenever there is a material change in the information contained therein.

E-17 Public Records [CAO-5/2/12]

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

E-18 Confidentiality – City Information [CAO-7/24/08]

- (a) All information, including but not limited to, oral statements, computer files, databases, and other material or data supplied to the Company is confidential and privileged. The Company shall not disclose this information, nor allow it to be disclosed, to any person or entity without the express prior written consent of the City. The Company shall have the right to use any such confidential information only for the purpose of providing the services under this Contract, unless the express prior, written consent of the City is obtained. Upon request by the City, the Company shall promptly return to the City all confidential information supplied by the City, together with all copies and extracts.
- (b) The confidentiality requirements shall not apply where (i) the information is, at the time of disclosure by the City, then in the public domain; (ii) the information is known to the Company prior to obtaining the same from the City; (iii) the information is obtained by the Company from a third party who did not receive the same directly or indirectly from the City; or (iv) the information is subpoenaed by court order or other legal process, but in such event, the Company shall notify the City. In such event the City, in its sole discretion, may seek to quash such demand.
- (c) The obligations of confidentiality shall survive the termination of this Contract.

E-19 Marketing Restrictions [CAO-7/24/08]

The Company may not publish or sell any information from or about this Contract without the prior written consent of the City. This restriction does not apply to the use of the City's name in a general list of customers, so long as the list does not represent an express or implied endorsement of the Company or its services.

E-20 Limitation of Funding [CAO-7/24/08]

The City reserves the right to reduce estimated or actual quantities, in whatever amount necessary, without prejudice or liability to the City, if funding is not available or if legal restrictions are placed upon the expenditure of monies for the services required under this Contract.

E-21 Changes – Fixed-Price Services [CAO-7/24/08]

- (a) The City may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this Contract in any one or more of the following:
 - (i) Description of services to be performed.
 - (ii) Time of performance (i.e., hours of the day, days of the week, etc.).
 - (iii) Place of performance of the services.
- (b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this Contract, whether or not changed by the order, the City shall make an equitable adjustment in the Contract price, the delivery schedule, or both, and shall modify the Contract.

- (c) The Company must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order; however, if the City decides that the facts justify, the City may receive and act upon a proposal submitted before final payment of the Contract.
- (d) If the Company's proposal includes the cost of property made obsolete or excess by the change, the City shall have the right to prescribe the manner of disposition of the property.
- (e) Failure to agree to any adjustment shall be a dispute under Section E-1 (Disputes); however, nothing in this clause shall excuse the Company from proceeding with the Contract as changed.
- (f) The Company shall provide current, complete, and accurate documentation to the City in support of any equitable adjustment. Failure to provide adequate documentation within a reasonable time after a request from the City will be deemed a waiver of the Company's right to dispute the equitable adjustment proposed by the City, where such equitable adjustment has a reasonable basis at the time it is determined by the City.

E-22 Counterpart Signatures [CAO-9/24/08]

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.

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

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

The Company further agrees to insert this provision in all subcontracts hereunder. Any violation of such provision by a Company shall constitute a material breach of this Contract.

SECTION F – List of Attachments/Exhibits

The following attachments are hereby incorporated into this contract:

<u>Identifier</u>	<u>Title/Text Reference</u>	<u>Date</u>	<u>Pages</u>
Exhibit A	Scope of Work	N/A	3
Attachment 1	Certificate – Disclosure of Ownership/Principals [Section E-16(c)]	04/08/2013	2

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

LAS VEGAS REDEVELOPMENT AGENCY

FFM, LLC dba FAISS FOLEY WARREN

CAROLYN GOODMAN
President

Date

MELISSA WARREN, Managing Partner

Date

ATTEST:

LUANN D. HOLMES, MMC
Acting City Clerk

Date

APPROVED AS TO FORM:

Deputy City Attorney

Date

EXHIBIT A

"STATEMENT OF WORK"

A. Overview

The Company shall fully and faithfully perform all Services reasonably necessary for this Contract, including without limitation, the following:

- (a) coordinate all consulting activities with the City's Project Manager, identified in Section D-2 (Project Manager/ Company Representative);
- (b) submit a monthly, or more frequently as requested by City, written status/progress report of all activities conducted by the Company;
- (c) perform the services as described in Exhibit A (Statement of Work); and
- (d) with respect to any reports or work product produced under this Contract, the Company shall issue any such reports and/or work product to: "the City and any Affiliate or other entity managed, either directly or indirectly, by the City."

B. Deliverables

The Company shall provide the following deliverables:

- (a) Manage, update, revise and maintain content on downtown.vegas to include:
 - (i) Managing and implementing weekly updates (copy writing and image procurement)
 - (ii) Developing articles/info to be featured
 - (iii) Gathering downtown event information
 - (iv) Defining and managing new images/graphics
 - (v) Planning for future pages, revisions to website
 - (vi) Assisting City staff with lvrda.org revisions when Adlava is needed
 - (vii) Supervising Adlava (website development company) on Search Engine Optimization (SEO), new pages, updates, technical needs
 - (viii) Providing analytics on a monthly basis and as needed for making adjustments to the site
- (b) Develop and write 12 monthly *Downtown News of Note* e-newsletters to include:
 - (i) Researching, conducting interviews and developing stories
 - (ii) Editing
 - (iii) Obtaining images for all stories
 - (iv) Obtaining testimonial quotes when possible
 - (v) Producing and distributing the e-newsletter (through Constant Contact)
 - (vi) Creating and maintaining editorial calendar
 - (vii) Updating, managing and growing database with Facebook ads/boosts and other Opt-In programs
 - (viii) Managing, writing and producing up to six (6) additional one-article *Downtown News of Note* eblasts
 - (ix) Providing analytics on a monthly basis
- (c) Create of a minimum of four (4) social media testimonial videos and provide minimum of six (6) testimonial quotes with photos.

For social media testimonial videos this shall include:

- (i) Identifying and schedule subjects
- (ii) Developing questions for subjects and concept for video
- (iii) Overseeing aspects of shoot
- (iv) Being responsible for all tasks regarding video production (i.e. shoot, editing, delivery)

- (v) Helping with placement of video in website, eblasts and/or City social media, as well as Company social media platforms
- (vi) Provide analysis of video viewership (i.e. working with the City regarding their social media)

For testimonials appropriate for print this shall include:

- (i) Identifying and obtaining positive quotes regarding doing business downtown
- (ii) Acquiring all approvals/revisions (by subjects)
- (iii) Obtaining photo of person doing quote
- (iv) Placing quotes in appropriate vehicles (i.e. websites, PowerPoint presentations, etc.)

(d) Seek appropriate speaking engagements for City staff to include:

- (i) Identifying potential engagements
- (ii) Working with City staff regarding scheduling, topics, etc.

(e) Negotiate and continue contract with Relocation Resources publication/online platform (source for reaching new arrivals to Las Vegas) to include:

- (i) Placing all ads
- (ii) Delivering copy for online information
- (iii) Negotiating new contract for 2015
- (iv) Managing opt-In program to gain new arrivals on email database

(f) Create/Negotiate/Manage/conduct tours of downtown Las Vegas for Las Vegas for Society of American Travel Writers (SATW) convention (to be held October 4-9, 2015) and continue with Downtown Las Vegas Familiarization Tours (FAMs) during remaining months.

For the SATW, this shall include:

- (i) Creating and managing selected downtown tours for visiting journalists
- (ii) Requesting and obtaining in-kind donations and free giveaways for events from private businesses
- (iii) Coordinating itineraries of selected tours, securing food and beverages when appropriate
- (iv) Negotiating use of Big Bus and other potential vendors/venues for appropriate tours
- (v) Leading tours in conjunction with other volunteers
- (vi) Following up with journalists

For FAMs, this shall include:

- (i) Answering requests for downtown Las Vegas information and tours
- (ii) Creating and coordinating itineraries; securing room, food and beverages when appropriate
- (iii) Securing featured venues and spokespeople
- (iv) Leading tours with hand-offs to other public relations personnel (when available)
- (v) Following up with journalists

For both SATW and FAMs, this shall include providing reports and measurements to include:

- (i) Circulation/viewership of media vehicles
- (ii) Resulting articles' and clips' media value
- (iii) Value of rooms, food and beverages from venues

(g) Special Projects/Programs/Contingency to include hard costs and time charges to manage projects, including the following potential projects:

- (i) Las Vegas Medical District
- (ii) Special Events
- (iii) Specialized Business Collateral

(h) Ongoing Administration to include:

- (i) Managing all vendors necessary for above – graphic designers, photographers, printers, publications, etc.
- (ii) Meeting monthly with City staff. Maintaining ongoing daily/weekly phone and email communications as necessary to advance all projects.
- (iii) Providing monthly reports to include milestones achieved, activity updates. Reports to include back-up documentation and timesheets.
- (iv) Managing the hard costs and resultant accounting processes, including budget oversight.
- (v) Managing all planning for ongoing marketing

C. Measurements

(a) Website: downtown.vegas

Current monthly visitors (users) to site are more than 2,000; the Company's goal is to at least double visitors to site by end of FY 16. The Company shall document monthly changes, including minimum documentation of sessions, users, page views, average visitor's duration, bounce rate and % new visitors. The Company shall provide monthly SEO reports as well and adjust the SEO program accordingly.

(b) E-newsletter: Downtown News of Note

The Company shall continue growing subscriber base; maintain the current level of engagement (open rate of more than 40%), which is approximately double industry average; continue growing click through rate (average of 20%) and exceeding industry average; and produce 12 monthly e-newsletters, each with multiple articles.

(c) Testimonial Videos and Quotes

The Company shall produce at least 4 videos; analyze visitors to City You Tube site, downtown.vegas and lvrda.org (who view videos) and the Company's You Tube site. The Company shall obtain at least 6 quotes appropriate for print with images.

(d) Images and Photography

The Company shall maintain a digital library of photos and stay within the budget allotted.

(e) Relocation Resources

The Company shall continue adding new email addresses to the Downtown News of Note database; negotiate contract rate of no more than a 10% increase for calendar 2016 (rate has remained the same through negotiation for four years). The Company gained 174 email addresses of new arrivals in first 6 months of FY 2014-15; and shall continue opt-in program with goal of 30 new email addresses per month.

(f) Society of American Travel Writers Tours (SATW) and Familiarization Tours

The Company shall secure and conduct Downtown Las Vegas (DTLV) related tours for SATW (60th annual convention; maintain list of eventual coverage; manage and coordinate FAM tours and maintain list of eventual coverage; include a minimum of 20 downtown businesses in the SATW tours; SATW's 50th annual convention held in Las Vegas in 2005 reached 66.4 million newspaper/magazine circulation/syndicated articles/internet postings/radio & TV interviews with an Advertising equivalent of \$3.4 million and a Publicity value of \$10.2 million. Social media values were not included. To-date (July 2014 – February 2015), FFW has achieved more than 2 dozen FAM tours with journalists from all over the country and the world with an Advertising equivalent value of \$3.5 million and a Publicity value of \$10.6 million (including social media values).

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 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 City – the managing member as well as all the other members; (e) trust – the trustee and beneficiaries.

2. Policy

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

3. Instructions

The disclosure required by the Resolutions referenced above shall be made through the completion 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, if any, between the City and the Contracting entity. Upon execution of such contract, the Contracting Entity is under a continuing obligation to notify the City in writing of any material changes to the information in this Certificate. This notification shall be made within fifteen (15) days of the change. Failure to notify the City of any material change may result, at the option of the City, in a default termination (in whole or in part) of the contract, and/or a withholding of payments due the Contracting Entity.

Block 1: <u>Contracting Entity</u>	Block 2: <u>Description / Subject Matter of Contract</u>
Name: FFM, LLC dba Faiss Foley Warren	Services for: Contract for Professional Services for the City of Las Vegas Economic Development Marketing Initiative
Address: 100 North City Parkway, Suite 750 Las Vegas, Nevada 89106	
Telephone: (702) 528-6016	Project Number: 150175-CB
EIN or DUNS :	

Block 3: <u>Type of Business</u> ☐ Individual ☐ Partnership ☒ Limited Liability City ☐ Corporation ☐ Trust ☐ Other:
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**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.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

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

Block 5: Disclosure of Ownership and Principals – Alternate

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

Name of Attached Document: _____

Date of Attached Document: _____

Number of Pages: _____

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.

Name

Date

Subscribed and sworn to before me this _____ day of

_____, 20__

Notary Public