

INFORMATION TECHNOLOGIES MASTER SERVICES AGREEMENT

THIS AGREEMENT is being entered into this _____ day of _____, 2017, by and between the CITY OF LAS VEGAS (hereinafter the "City"), a municipal corporation within the State of Nevada having its principal office at 495 South Main Street, Las Vegas, Nevada 89101, and Certified Project Resources, Inc., dba Fiala Project Resources, Inc., (hereinafter the "Company"), a corporation organized and existing under the laws of the State of Nevada, having its principal office at 190 Ultra Drive, Henderson, Nevada 89074.

SECTION A – Agreement Overview

A-1 Summary of Agreement [CAO-01/20/16]

- (a) The subject matter of this Agreement is to provide information technology consulting services. This Agreement sets forth the terms and conditions for the performance of services described herein, and the execution hereof by the parties hereto forms a legally binding contract.
- (b) This is a Non-Exclusive Agreement to provide services as provided for in individual Task Orders, as defined below. The execution of this Agreement does not obligate the City to award any Task Order hereunder.
- (c) The following documents are hereby incorporated into this Agreement:
 - (i) Attachment 1 – Services Price List
 - (ii) Attachment 2 – Task Order Template
 - (iii) Attachment 3 – Acceptance Form Template
 - (iv) Attachment 4 – Certificate – Disclosure of Ownership/Principals

A-2 Agreement Amount

The aggregate amount of Task Orders issued by the City under this Agreement shall not exceed \$150,000 per year.

A-3 Performance Period [CAO-01/20/16]

This Agreement shall commence on the Award Date and shall continue in effect for a period of one year from the award date or until the completion of the last issued Task Order, whichever is longer. The City shall have the right to issue a task order for a period of one year after the Award Date. The completion date of each task order will be set forth in the task order. The City is granted four one-year options to extend the one year term of this Agreement. The City shall exercise an option by giving written notice to the Company thirty (30) days prior to the expiration of the current one-year term of the Agreement. If the City does not choose to exercise any option to extend the Agreement, then the Agreement will expire at the expiration of the one-year term, or the date of completion of the last task order, whichever is the last to occur. The Company may not assume the exercise of any option by the City, and the exercise of any renewal option does not commit the City to exercise any further options.

SECTION B – Basic Terms

B-1 Definitions [CAO-01/20/16]

The following definitions apply to this Agreement:

- (a) "Agreement" means this document, consisting of Sections A through E, which is binding and effective only upon execution by the City.
- (b) "Award Date" means the date that an Agreement becomes effective. It is the date entered into the first paragraph of an Agreement upon execution by an authorized representative of the City.
- (c) "Deliverable" means any report, data, documentation or other tangible item that the Company is required to provide to the City under the terms of the Agreement.
- (d) "Non-Exclusive Agreement" means a contract under which the City agrees to obtain some, but not necessarily all, of the City's requirements for a particular service.

- (e) “*Services*” means the information technology consulting services set forth in a Task Order issued by the City to the Company.
- (f) “*Task Order*” means a document substantially in the form of Attachment 2 to this Agreement, which is used to award a project for delivery of Services and/or Deliverables.

SECTION C – Statement of Work

C-1 Scope of Work

The work may consist of any professional services requested by the Project Manager, as set forth in a Task Order awarded as described in Section C-2, below. Unless explicitly stated otherwise in a Task Order the Service rates are for an 8-hour person-day. The Company is under no obligation to perform any Services other than pursuant to an awarded Task Order.

The City will assign and manage the City’s project team, and the Company will determine the method, details, and means of performing the Services. The City will provide the Company with such facilities, equipment, and support as are reasonably necessary for the Company to provide the Services, including remote access to City equipment. City responsibilities must be detailed in each Task Order.

C-2 Task Order Process

- (a) The City will request a proposal for a specific Task Order and will provide the following information pertinent to the project. Information may be jointly determined based on informal discussions with the Company:
 - i. proposal submission instructions;
 - ii. project background;
 - iii. description of Services;
 - iv. description of each Deliverable;
 - v. start and completion date of the Services and/or each Deliverable; and
 - vi. other special terms and conditions.
- (b) The Company will respond to the request with a proposed Task order in the format of and including the information described in the template attached to this Agreement as Attachment 2. The proposal will be subject to review and negotiation. The City is not required to accept any proposal. The proposed Task Order shall contain the following information, at minimum:
 - i. description of Services and each Deliverable that is the subject of the Task Order;
 - ii. start date and completion date for the Services and/or each Deliverable;
 - iii. compensation to be paid for the Services and/or each Deliverable, which shall be based on the hours of work performed by the Resource Level and hourly fee set forth in Attachment 1;
 - iv. payment Schedule, including, if applicable, payments to be made by milestone or on completion and acceptance of a Deliverable; and
 - v. other special terms and conditions.
- (c) After both parties have executed a Task Order, the City will issue a purchase order. The Company may not commence any billable work under a Task Order until it has received a purchase order.
- (d) Unless otherwise specified in a Task Order, the Company may not invoice the City until completion of the applicable Task Order and the City has tested and accepted in writing each Service or Deliverable. Such acceptance will be evidenced by the City’s execution of the Acceptance Form. The City agrees to complete its testing and acceptance within any timeframe set forth in each Task Order. If the City does not accept any Service or Deliverable, it will indicate its rejection in writing to the Company, including specific defects or deficiencies in the Service or Deliverable.

SECTION D – Special Conditions

D-1 Project Manager/Company Representative [CAO-7/24/08]

- (a) The City designates Chris Craig as the Project Manager for this Agreement. 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 Agreement, will provide all general direction to the Company regarding Agreement performance, and will provide guidance regarding the City's goals and policies. The Project Manager is not authorized to waive or modify any material scope of work changes or terms of the Agreement.
- (b) The Company designates Peter Fiala as the Company Representative for this Agreement. 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 Agreement.

D-2 Pricing and Payment [R]

- (a) The City may issue Task Orders under this Agreement. The Company is not entitled to any claim for compensation until a purchase order has been issued by the City and the Services or Deliverables that are the subject of the Task Order are accepted by the City.
- (b) The Company will invoice and the City will pay the Company the compensation set forth in each Task order, which compensation will be based on resource level per hour as set forth in Attachment 1 to this Agreement
- (c) Reimbursable Travel Expenses. If travel is authorized under a Task Order, reasonable travel expenses will be paid when services are performed in Las Vegas. A not-to-exceed amount for travel reimbursements must be established in each Task Order. 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 for all other expenses including, but not limited to, lodging, meals, transportation, rental cars, parking, and incidental expenses, will be paid at a per diem rate of \$166.00 per day. This per diem rate will start concurrently with the first day of work performed on site at the City and end with the last day of scheduled on site work at the City. The Company must complete a minimum of six (6) hours of work for every day a per diem is paid. 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.

D-3 Invoices [CAO-01/20/16]

- (a) Unless otherwise stated in the applicable Task order, the Company will invoice the City on completion of all Services or Deliverables authorized pursuant to that Task order, and acceptance by the City of the Services or Deliverables. Each invoice shall contain the following information:
 - (i) the date of the invoice and invoice number;
 - (ii) the purchase order number;
 - (iii) the Task Order number; and
 - (iv) the Task Order line item(s) against which charges are made.

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-1, "Project Manager/Company Representative", with the following items:

- (i) receipts for any Reimbursable Travel Expenses, if applicable; and
- (ii) signed Acceptance Form.

D-4 Insurance [CAO-04/08/15]

- (a) The Company shall procure and maintain, at its own expense, during the entire term of the Agreement, 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 Agreement, 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 Company'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 Agreement in a policy limit of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate, for bodily injury, 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 Company'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) 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 Agreement. Any retroactive coverage must coincide with or predate the beginning of this Agreement 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 Agreement number and the Agreement description. The Company shall maintain coverage for the duration of this Agreement, 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 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, (i.e., A- VII, A- VIII, A- IX, A- X, etc.). 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 default pursuant to Section E-5, and terminate the Agreement if the default is not remedied, 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.

D-5 Warranty – Services

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

SECTION E – General Conditions

E-1 Legal Notice [CAO-01/08/15]

- (a) All legal notices required pursuant to the terms and conditions of this Agreement shall be in writing, unless an emergency situation dictates otherwise. Any notice required to be given under the terms of this Agreement shall be deemed to have been given when (i) received by the party to whom it is directed by hand delivery or personal service, (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: Manager, Purchasing and Contracts
City of Las Vegas
495 South Main Street, 3rd Floor
Las Vegas, Nevada 89101-2986
Fax: (702) 384-9964
Email: purchasing@lasvegasnevada.gov

FOR THE COMPANY: Attn: Peter Fiala
Fiala Project Resources, Inc.
190 Ultra Drive
Henderson, Nevada 89074
Email: peterf@fialapr.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 Agreement, legal notice shall be required for all matters involving potential termination actions, litigation, indemnification, and unresolved disputes. This does not preclude legal notice for any other actions having a material impact on the Agreement.
- (e) Routine correspondence should be directed to the Buyer or the Company Representative, as appropriate.

E-2 Disputes [CAO-08/01/13]

- (a) For each claim or dispute arising between the parties under this Agreement, the parties shall attempt to resolve the matter through escalating levels of management. In the event the matter cannot be successfully resolved in this manner, the City is granted the right, regardless of which party is asserting the claim or dispute, to determine between arbitration 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 Agreement and the venue for purposes of such litigation or arbitration shall be the Eighth Judicial District Court, Clark County, Nevada.

E-3 Notice of Delay [CAO-01/20/16]

- (a) If timely performance by the Company is jeopardized by the non-availability of City provided personnel, data, or equipment, the Company shall notify the City immediately in writing of the facts and circumstances causing 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-4 Termination for Convenience [R]

The City shall have the right at any time to terminate further performance of this Agreement or any Task Order issued hereunder, 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 Paragraph is for payment of costs for services requested by the City and actually performed by the Company.

E-5 Event of Default [R]

- (a) If, during the term of this Agreement or any Task Order hereunder, the Company (i) fails to deliver services that comply with the specifications, (ii) fails to deliver the services within the time specified in the Task Order or any extension thereof, (iii) fails to make progress so as to endanger the performance of this Agreement or any Task Order hereunder, (iv) becomes insolvent, bankrupt or makes an assignment for the benefit of creditors, or if a receiver or trustee in bankruptcy is appointed for the Company, or if any proceeding in bankruptcy, receivership, or liquidation is instituted against the Company and is not dismissed within thirty (30) days following commencement thereof, or (v) fails to perform any of the other obligation or requirement of this Agreement or any Task Order hereunder, then any of the aforementioned failures shall constitute an "Event of Default" under this Agreement.
- (b) If there occurs an Event of Default, the Company shall be entitled to ten (10) calendar days from written notice thereof to remedy the Event of Default, provided, however, such is capable of being remedied within that period. If the Event of Default can be remedied, but the remedy cannot be completed within the ten day period, the Company may be allowed such additional time as may be reasonably necessary to remedy the Event of Default, provided, however, the remedy is commenced within the ten day period and is diligently pursued to completion. If the Event of Default is

incapable of remediation, or is not remedied as required herein, the City may, in addition to any other remedies available in law or equity, invoke any of the remedies provided for under Section E-6, "Termination for Default", below.

E-6 Termination for Default [R]

- (a) If the Event of Default is not remedied as required pursuant to Section E-5, "Event of Default", the City may, by written notice to the Company pursuant to Section E-1, "Legal Notice", terminate this Agreement in whole or in part, or terminate any Task Order hereunder in whole or in part.
- (b) If this Agreement or any Task Order hereunder is terminated in whole or in part because the Company has failed to provide services in compliance with the specifications by the deadline of remediation period, the City may acquire, under reasonable terms and in a manner it considers appropriate, replacement Services that are comparable to the services that the Company failed to deliver to the City, and the Company shall be liable to the City for any excess costs related thereto. If the City terminates this Agreement or any Task Order only in part, the Company shall continue to perform the un-terminated obligations or portions of this Agreement.
- (c) The Company shall not be liable for any excess costs if the failure to perform arises from circumstances beyond the control of, and without the fault or negligence on the part 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 Agreement shall be extended by such period of enforced delay; provided, however, that such reasonably extended time period shall not exceed sixty (60) days. If the foregoing circumstances result in a delay greater than 60 days, the City may terminate the affected portion of the Agreement or Task Order pursuant to the terms of Section E-4, "Termination for Convenience".
- (d) The City retains the right to terminate for default immediately if the Company fails to maintain the required levels of insurance, fails to comply with applicable local, state, and Federal statutes governing performance of these services, or fails to comply with statutes involving health or safety.
- (e) If the City fails to perform any of its obligations required under this Agreement, and the City does not remedy the failure after notice thereof is provided to the City by the Company pursuant to the requirements of Section E-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 E-2, "Disputes" of this Agreement. During the period of such resolution, the Company shall continue with its performance under the Agreement.

E-7 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 Agreement.

E-8 Changes – Fixed-Price Goods or Services [CAO-11/30/15]

- (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 Agreement in any one or more of the following:
 - (i) Description of services to be performed or goods to be provided.
 - (ii) Time of performance (i.e., hours of the day, days of the week, etc.).
 - (iii) Place of performance of the services.
 - (iv) Time or place of delivery of goods
- (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 Agreement, whether or not changed by the order, the City shall make an equitable adjustment in the Agreement price, the delivery schedule, or both, and shall modify the Agreement.
- (c) The Company must assert its right to an adjustment under this clause within thirty (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 Agreement.
- (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 the disposition of the property.

- (e) Failure to agree to any adjustment shall be a dispute under Section E-2, "Disputes"; however, nothing in this clause shall excuse the Company from proceeding with the Agreement as changed.
- (f) The Company shall provide current, complete, and accurate documentation to the City in support of any request for 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-9 Entire Agreement, Section and Paragraph Headings [CAO-7/24/08]

- (a) This Agreement 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 Agreement.
- (b) The section and paragraph headings appearing in this Agreement 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-10 Order of Precedence [CAO-7/24/08]

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

E-11 Severability [CAO-7/24/08]

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. The parties further agree to amend this Agreement 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 Agreement from being void should a provision which is of the essence of this Agreement be determined void.

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

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

E-13 Modification/Amendment [CAO-7/24/08]

This Agreement 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 Agreement shall be null and void, and may not be relied upon by either party.

E-14 Assignment [CAO-7/24/08]

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

E-15 Indemnification [CAO-5/2/12]

- (a) In addition to the insurance requirements set forth in Section D-4, "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 Agreement, regardless of whether the Liabilities were caused in part by the City.

- (b) If a third party claim against the City for negligent performance by the 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 Agreement. 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 Agreement, 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 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-16 Patent Indemnity [CAO-7/24/08]

The Company hereby indemnifies and shall defend and hold harmless the City and its representatives respectively from and against all claims, losses, costs, damages, and expenses, including attorney's fees, incurred by City and its representatives, respectively, as a result of or in connection with any claims or actions based upon infringement or alleged infringement of any patent and arising out of the use of the equipment or materials furnished under the Agreement by the Company, or out of the processes or actions employed by, or on behalf of the Company in connection with the performance of the Agreement. The Company shall, at its sole expense, promptly defend against any such claim or action unless directed otherwise by the City or its representative; provided that the City or its representatives shall have notified the Company upon becoming aware of such claims or actions, and provided further that the Company's aforementioned obligations shall not apply to equipment, materials, or processes furnished or specified by the City or its representatives.

E-17 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 Agreement 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 Agreement, 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 Agreement 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 Agreement. 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 Agreement, or at any time after the expiration or termination of the Agreement, 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: (i) repaid immediately by the Company to the City or (ii) at the City's option, credited against any future billings due the Company.

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 to it 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 Agreement, 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 Agreement.

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

The Company may not publish or sell any information from or about this Agreement 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 Intellectual Property Rights [CAO-7/24/08]

All deliverables produced under this Agreement, as well as all data, notes and documentation collected on behalf of the City, are exclusively the property of the City.

E-21 Taxes/Compliance with Laws [CAO-08/01/13]

(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 Agreement. 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 Agreement, shall comply with all applicable laws, rules and regulations of all governmental authorities having jurisdiction over the performance of this Agreement including, but not limited to, the Federal Occupational Safety and Health Act.

E-22 Licenses/Registrations [CAO-01/20/16]

During the entire performance period of this Agreement, the Company shall maintain all federal, state, and local licenses, certifications and registrations applicable to the work performed under this Agreement, including maintaining an active City of Las Vegas business license if required by [Las Vegas Municipal Code 6.02.060](#).

E-23 Non-Discrimination and Fair Employment Practices [CAO-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 the Agreement.

(b) Fair Employment Practices: In connection with the performance of work under this Agreement, 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.

(c) 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 Agreement.

E-24 Employment of Unauthorized Aliens [CAO-01/20/16]

In accordance with the Immigration Reform and Control Act of 1986, the Company agrees that it will not employ unauthorized aliens in the performance of this Agreement.

E-25 Conforming Services [CAO-7/24/08]

The services performed under this Agreement shall conform in all respects with the requirements set forth in this Agreement. 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 Agreement.

E-26 Independent Contractor [CAO-7/24/08]

In the performance of services under this Agreement, 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 Agreement. The City shall hold the Company as the sole responsible party for the performance of this Agreement. 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-27 Official, Agent and Employees of the City Not Personally Liable [CAO-01/20/16]

It is agreed by and between the parties of this Agreement, that in no event shall any official, officer, employee, or agent of the City in any way be personally liable or responsible for any covenant or agreement therein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this Agreement.

E-28 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 Agreement, payments under this Agreement, or work under this Agreement, shall not be directly or indirectly interested personally in this Agreement 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 Agreement, shall become directly or indirectly interested personally in this Agreement or in any part hereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to this Agreement.
- (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 Agreement. Notwithstanding any other provision of this Agreement, if such interest becomes known, the City may immediately terminate this Agreement 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-29 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 Agreement and all supporting documents are deemed to be public records.

E-30 Use By Other Government Entities [CAO-01/20/16]

A governing body or its authorized representative and the State of Nevada may join or use the contracts of local governments located within or outside this State with the authorization of the contracting vendor. In the event the Company allows another governmental entity to join the Agreement, it is expressly understood that the City shall in no way be liable for the obligations of the joining governmental entity.

E-31 Counterpart Signatures [CAO-9/24/08]

This Agreement 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.

FIALA PROJECT RESOURCES, INC.

Date

Date _____

Date

ATTACHMENT 1 – SERVICES PRICE LIST

	Service Category	Cost		
		Junior	Intermediate	Senior
✓	Application Development Support Services	\$65	\$85	\$100
✓	Computer Programming Services	\$65	\$85	\$100
✓	Computer Systems Analysis Support Services	\$55	\$75	\$95
✓	Computer Systems Security	\$65	\$85	\$125
✓	Database Management Services	\$65	\$85	\$125
✓	Desktop Support	\$45	\$55	\$65
✓	EDMS Services	\$45	\$55	\$65
✓	Electronic Commerce/EDI	\$45	\$55	\$65
✓	GIS Services	\$55	\$75	\$95
✓	Help Desk Support	\$40	\$50	\$65
✓	IT Business Analyst	\$60	\$75	\$90
✓	IT Support Staff – Operations	\$55	\$75	\$95
✓	IT Training	\$55	\$75	\$95
✓	Network Support Services	\$55	\$75	\$95
✓	Network Security Services	\$55	\$75	\$95
✓	Professional Services	\$75	\$90	\$125
✓	Project Management Services	\$75	\$90	\$125
✓	Quality Assurance Support Services	\$55	\$65	\$75
✓	Report Writer	\$55	\$65	\$75
✓	Strategic Planning Support Services	\$60	\$80	\$120
✓	Telecommunications Services	\$55	\$75	\$95
✓	Unix Administration Support Services	\$55	\$75	\$95
✓	Website Administration and Content Management Support Services	\$55	\$75	\$95
✓	Windows Administration Support Services	\$55	\$75	\$95
✓	Wireless Networking	\$55	\$75	\$95

ATTACHMENT 2 –TASK ORDER TEMPLATE

This Task Order is subject to all terms and conditions of Master Service Agreement (MSA) No. 180030-PH between Fiala Project Resources, Inc. ("Company") and the City of Las Vegas ("City").

Effective date of Task Order: _____ Task Order #: _____

Prepared by (Arisant): _____ Project Name: _____

Project Objective: _____

Section A – Services/Deliverables and Related Effort

[Insert table:

Services/Deliverables | Resources | Hours | Hourly Rate | Target Date]

Section B – Specifications and Functionalities

List

Section C – Task Order Exclusions

List

Section D – Company Responsibilities

List

Section E – City Responsibilities

List

Section F – Summary of Compensation

List: Total Cost of Section A
NTE Reimbursable Travel Expenses
Total Task Order Amount

Section G – Payment Schedule

Describe payment terms

CITY OF LAS VEGAS

FIALA PROJECT RESOURCES, INC.

EDWARD O'NEAL
Manager, Purchasing and Contracts

Date

PETER FIALA
Project Engagement Manager

Date

CITY PROJECT MANAGER

[print name]

ATTACHMENT 3 – ACCEPTANCE FORM TEMPLATE

This Acceptance Form is the document of record to be used for the acceptance of the performance of the Task Order, or for individual Deliverables subject to the Task Order.

Company Name: _____

Task Order Number: _____ PO Number: _____

Amount: \$ _____ Invoice Number: _____

Performance Period – Start: _____ End: _____

Description of Deliverable (if Deliverable is to be accepted herein): _____

☐ DELIVERABLE described above which is subject to the above identified Task Order has been accepted by City of Las Vegas and APPROVED for payment.

☐ TASK ORDER including each Deliverable subject to the Task Order have been accepted by City of Las Vegas and APPROVED for payment.

☐ TASK ORDER AND/OR DELIVERABLE – Not Approved

Reason:

CITY PROJECT MANAGER

FIALA PROJECT RESOURCES, INC.

Name, Title

Date

Name, Title

Date

ATTACHMENT 4 - CERTIFICATE - DISCLOSURE OF OWNERSHIP/PRINCIPALS

1. Definitions

"City" means the City of Las Vegas.

"City Council" means the governing body of the City of Las Vegas.

"Contracting Entity," means the individual, partnership, or corporation seeking to enter into a contract with the City of Las Vegas.

"Principal" means, for each type of business organization, the following: (a) sole proprietorship – the owner of the business; (b) corporation – the directors and officers of the corporation; but not any branch managers of offices which are a part of the corporation; (c) partnership – the general partner and limited partners; (d) limited liability company – the managing member as well as all the other members; (e) trust – the trustee and beneficiaries.

2. Policy

In accordance with 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 of this Certificate. The Contracting Entity shall complete Block 1, Block 2, and Block 3. The Contracting Entity shall complete either Block 4 or its alternate in Block 5. Specific information, which must be provided, is highlighted.

4. Incorporation

An updated and notarized Certificate shall be incorporated into the resulting contract, if any, between the City and the Contracting entity. Upon execution of such contract, the Contracting Entity is under a continuing obligation to notify the City in writing of any material changes to the information in this Certificate. This notification shall be made within fifteen (15) days of the change. Failure to notify the City of any material change may result, at the option of the City, in a default termination (in whole or in part) of the contract, and/or a withholding of payments due the Contracting Entity.

Block 1: Contracting Entity	
Name:	
Address:	City / ST / Zip:
Telephone:	EIN or DUNS :
Block 2: Description / Subject Matter of Agreement	
Services for:	Project Number:

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

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: _____

Contracting Party Certification (<i>Notarized signature required in event of contract award per section 4, “Incorporation”</i>)	
I certify under penalty of perjury, that all the information provided in this Certificate is current, complete and accurate. I further certify that I am an individual authorized to contractually bind the above named Contracting Entity.	
_____ Signature _____ Date	
Subscribed and sworn to before me this _____ day of _____, 20____ _____ Notary Signature	